

**DHCD, DBFR 2009 Code Change Process**  
**March 19, 2009 Workgroup Meeting Agenda Package**  
**Administrative and Selected Technical Issues for the USBC, SFPC, MHSR, IBSR, VADR**  
**and VCS Regulations**

Date: February 23, 2009

To: Stakeholders

From: Emory Rodgers, Deputy Director, DBFR

Subject: Code Change Meetings for the 2009 Regulations

**The second meeting will be held on March 19, 2009 from 9:30 a.m. until 3:30 p.m. in the DHCD first Board Room, 501 2<sup>nd</sup> Street, North, Richmond, Virginia. Please advise of your attendance as we need to order deli platters and ensure that we have adequate meeting space.**

Workgroup 2 will review the administrative provisions of six regulations with the most attention being on USBC and the SFPC technical amendments currently in these regulations; the technical provisions of the Manufactured Housing Safety Regulations, Industrialized Building Safety Regulations, Amusement Device Safety Regulations and the Virginia Certification Standards. The Statewide Fire Prevention Code has 2009 IFC changes for new egress exit markings, building signage, fire drill requirements and crowd management, while for the USBC there are increased fire control room space, more stringent sprinkler requirements for A-4, E and M for furniture stores, and a major expansion in scope and equipment requirements for emergency communication systems.

**2009 Virginia Certification Standards (VCS):**

May need coordination code changes with VUSBC and VADR regulations on CEU's. The VCS isn't exempt from the full APA process so will be sent through OAG, DPB, SOCT, Governor's Office. Discussion only. **(no handout)**

**2009 Industrialized Building Safety Regulations (IBSR):**

1. 13VAC5-91-10 CAA: amend to comport with 36.71.1 and clarify charging of fees per module. Consensus to move forward? **(pages 11 - 23)**
2. 13VAC5-91-40 Inspection and enforcement: Clarifies that staff can issue correction reports/violations in the plant or building site the same as local building official or compliance assurance agency (CAA). Consensus to move forward? **(pages 11 - 23)**
3. 13VAC5-91-70 Appeals: In VUSBC, owner can appeal decisions over interpretation and application, but not in the IBSR as they aren't an aggrieved party per law and are not involved in the design and construction. Unless the state administrator agrees with the owner, the only recourse is civil action or the state administrator issues a violation and the regulant appeals. Discussion only. **(pages 11 - 23)**

4. 13VAC5-91-100A-1, A-2 and B Data plate: Clarifies can ask for more details on plans whether it is under IBSR or USBC. Consensus to move forward? **(pages 11 - 23)**
5. 113VAC5-91-115 Change of Occupancy: Discussion on further clarifications. **(pages 11 - 23)**
6. 13VAC5-91-120 A, B and C-2 Unregistered Industrialized Buildings: Are pods, sheds, and containers IBSR or USBC? Can they be USBC moved buildings? Do we need law changed or just the regulations and how? Should an exception be added to B for sheds or containers? TRB has ruled containers are not under the USBC. Discussions only. **(pages 11 - 23)**
7. 13VAC5-91-120 C-3: Should the state administrator, BO or RDP be allowed to do approvals without CAA involvement? Discussion only. **(pages 11 - 23)**
8. 13VAC5-91-160 Use of Model Codes and Standards: Why have different effective date than other regulations? Discussion only. **(pages 11 - 23)**
9. 13VAC5-91-180 CAA: Change to delete under oath. Consensus to move forward? **(pages 11 - 23)**
10. 13VAC5-91-200 Information Required by the Administrator: Certification CAA - can it be ICC or standard? Discussion only. **(pages 11 - 23)**
11. 13VAC5-91-210 CAA Certification Label: Review only. **(pages 11 - 23)**
12. 13VAC5-91-220 Mounting of Label: If CAA only inspects once a week or month, how does this section work? Discussion only. **(pages 11 - 23)**
13. 13VAC5-91-245 Manufacturer's Data Plate: Review. **(pages 11 - 23)**
14. 13VAC5-91-260 Registration Seal for Industrialized Buildings: Increases seal fees and explains new fees per modular of a finished building. Necessary to have self-funded program. Last fees raised in 1995. Consensus to move forward? **(pages 11 - 23)**
15. 13VAC5-91-270 Manufacturer's Installation Instructions and Responsibility of Installers: Mandates inspections including bolting of units. One of the biggest enforcement issues and field problems. Consensus to move forward? **(pages 11 - 23)**
16. IBSR and USBC 421: Better coordinate the two in required inspections by building officials and installers. **(page 24)**

#### **2009 Virginia Manufactured Housing Safety Regulation (VMSR):**

1. 5-95-10 Definitions: Need to expand for new installer inspection, certification and call for inspections requirements from "federal standards". Consensus to move forward? **(pages 25 - 31)**

2. 5-95-20 D, E and F Application and Enforcement: Clarifies and makes anchoring a MHSR and not USBC requirement. F adds new installer requirements. Consensus to move forward for MHSR and replicate in USBC 421? **(pages 25 - 31)**
3. 5-95-60 Installations: Review. **(pages 25 - 31)**
4. 5-95-90 B, C, D and F Consumer Complaints: Review. **(pages 25 - 31)**
5. 5-95-100 Violation, Appeal, Penalty: BO issue violation too? Consensus to move forward? **(pages 25 - 31)**
6. USBC 421: Delete NCSBCS standard. Add 421.2.1 specific requirements for installers including shall call for inspections of each area using the USBC 113 sections and 421.2.2 for MHSR inspections replicating HUD installation standards in both regulations. Consensus to move forward revised regulations in 421? **(page 32)**

**2009 Virginia Amusement Device Regulation:** ADTAC will be reviewing each of these items for recommendations and approval of code changes.

1. Amusement device- “Open to the public” and “conveyed in an unusual manner for diversion” are used to define amusement devices. Inflatable’s are amusement devices but are they when erected at private events such as birthday parties, clubs, associations, etc? Discussion only to better clarify seems necessary? **(page 35 )**
2. 5-31-20 Definitions: Should trains in malls or zip lines be deemed amusement devices? Under what standards? USBC or SFPC can apply to mall trains. Discussion only. **(no handouts)**
3. 5-31-20 Definitions: Define “kiddie ride”. Will use descriptors in regulations. OAG recommendation. Consensus to move forward? **(pages 38 - 46)**
4. 5-31-75C Local Building Department: Clarify insurance as aggregate and not per device. Consensus to move forward? **(pages 38 - 46)**
5. 5-31-85: Accidents Involving Serious Injury or Death: Should accident reports be sent to DHCD on annual basis? Most states do require state to maintain this data to determine frequency and types of accidents and equipment involved. Consensus to move forward as mandate? **(pages 38 - 46)**
6. 5-31-200 General Requirements: Increase from 150 square feet permit exemption for inflatables to some greater footage or width/height? Consensus to keep? Consensus to increase to what and move forward? **(pages 38 - 46)**
7. 5-31-210 General Requirements: Rock-climbing walls - change inspection frequency to once or twice per year instead of every 90 days? Consensus to move forward as is or new

frequency? Should rock-climbing walls in gyms be a separate section with different standards? Discussion only. **(pages 38 - 46)**

#### **E-85 fuel and dispensers USBC 2206.7.1:**

1. DHCD is considering issuance of a sample modification for E-85 dispensers until such time listing is available and until the 2012 ICC codes can include them into the IFC. If changes are desired then need to coordinate VUSBC and VFPC and IFC 2206.7.1. Discussion only. IF code changes then Consensus to move forward new standard and any technical changes? Albemarle approved 1<sup>st</sup> fueling station for public. **(pages 47 - 56)**

#### **Virginia Fire Prevention Code:**

1. T107.2, IFC 2403.2: 900 square feet is permit exemption but IFC 2403.2 has 200 square feet VFPC administrative provisions always override those in the I-codes. USBC 101.4/101.7 has provisions that state clearly hierarchy of regulations and codes/standards. Consensus to place these into VFPA for clarity and avoid misapplication? Sections 105.3.3 and 105.4: Certification and CEU changes coordinate with the USBC. **(no handout)**
2. Section 108.1.2 to 109.5: VUSB construction permits could be construed as under the fire official even though in the F102.6 and 108.5 say they are not. VUSB doesn't replicate operational permits. Consensus to delete or retain? **(no handout)**
3. Section 107: SFMO any need to make clarifications on fees or raise them? Discussion only. **(pages 57 - 58)**
4. VSFPC/VUSB VFPC110.4, IFC311.5 and USBC 118.4: Placarding new requirements in IFC. Need to allow use in USBC as placarding now done under USBC. Current USBC language is very flexible while IFC is more prescriptive. Discussion only on how to move forward and with what requirements? **(no handout)**
5. VSFPC Sections 111 and 112: NOV should indicate appeals section even when there are immediate unsafe conditions the same as the USBC. Fire officials, like the other code officials, can still take corrective action and seek court action upon conferring with local commonwealth attorney for imminent dangers requiring abatement/emergency repairs. Discussion and staff can draft the same or appropriate language for the VFPC. Consensus to move forward? **(no handout)**
6. VSFPC and IFC 2703.3: Reported is a fire official issuing summons/NOV under utility section even when there has been a Ms. Utility marking and there is an accidental breakage of a gas line. Need code change language to clarify IFC 2703.3 and consensus to move forward to avoid legislative bill being introduced? Tidewater fire officials worked out for now. **(no handout)**
7. VSFPC 405.4: Glitch to fix with word "not" left out to reinsert. Consensus to move forward with fix? **(no handout)**

8. VSFPC: Contact information for the SFMO at VDFP to be inserted. FYI. **(no handout)**
9. VSFPA Definitions, IFC 401.1 and VUSC: Amend to include R-5 as a licensed occupancy. Catlett to submit code change. Consensus to move forward and correct in all places noted? **(page 59)**
10. VSFPC/IFC 304.3.2: Delete as now in 2009 IFC. Consensus to delete? **(no handout)**
11. IFC 307.4.3: Approved that portable outdoor fire places need to be 15 feet from combustibles or per manufactured instructions. Implication and enforcement issues at homes versus R-1 or R-2? Discussion only. Any amendments with consensus to move forward? **(pages 60 - 63)**
12. SFPC/USBC/IFC 315.3.1: Any need to clarify sprinklers to protect eaves? PWC attorney felt clarification was necessary. STRB has request. **(page 64)**
13. IFC 403.3: Crowd managers required over 1,000 occupants with one cm for 250 occupants unless fire official reduces with sprinklers and the event. Since most all new A occupancies have sprinklers, should there be another number of occupants set instead it being up to the fire official? Discussion and consensus to change number without sprinklers or where sprinkled and without alcohol as another factor? Consensus to move forward as is or changed and to what? **(pages 65 - 66)**
14. IFC 405.2.1, 408.5.4, 408.5.5, T405.2: Fire drills for R-4, I-1, I-4 and high-rises need to be coordinated and reconsider full evacuations of residents 6 times per year. VUSBC and ICC will be changing scope of these occupancies and passive construction/compartmentalization requirements. Need to allow assembly within designated interior protected compartment. High-rises as now written preempts Table 405.2 so I-1 high-rise only needs fire drills for staff? Discussion and fixes seem necessary. Consensus to move forward changes and to do so based on compartmentalization construction for these occupancies for licensed facilities. **(pages 66 - 68)**
15. IFC 404.3.3: Approved new lockdown requirements. Not to conflict with other sections of the code. Implication and coordination with police and VUSBC as should be done at time of construction if alarm systems, communication systems and egress door locking systems are part of the plan. Discussion only. Consensus to move forward as is or with changes in the VFPC and/or the VUSBC? **(pages 69 and 76)**
16. IFC 501: Approved as modified new building information sign that includes occupancy, construction type, fire systems, hazards, tactical and sign maintenance. Discussion about sign, what do fire department now have in own records, already require forms for hazardous materials and how much information can get on a sign about the items in 3 for structural members? Consensus to move forward with or without changes? **(pages 70 - 75)**
17. IFC 503.2.1: Fire access road width excludes shoulders. Just a classification. Discussion only. **(pages 77 - 79)**

18. IFC 509.1: Increases fire control room size. Need to do in the VUSC and Work Group 3. Should present size of 96 square feet. be increased to 250 square feet and what data to support? Should it be larger for only super high-rises over 420 feet and so many occupants? Consensus to move forward as is or changes or leave at 96 square feet? **(page 79)**
19. IFC 511.1: Approved modified emergency communication system for all buildings other than IRC and is similar to code change offered in the 2003 USBC back failed to lack of consensus to the one approved for the 2006 VUSBC/VFPC. The section supposedly doesn't apply if the local signal to the new and existing building isn't at 95dBa? Requires interior cables, amplification equipment, antennas and if local system changes update those existing systems. No cost data was presented. Consensus to move forward, change or delete leaving the 2006 VUSBC version in tact? **(pages 80 - 87)**
20. VSFPC/IFC 603.7: Never used and can do without note. Many localities do own boiler inspections under the USBC VMC such as Arlington, Fairfax, Roanoke, Alexandria, Norfolk besides ones done by DLI for insurance purposes. Consensus to delete or leave? **(no handout)**
21. VSFPC/IFC 604.6: Why not get into ICC for annual testing of these battery exit signs? Who is doing this? Consensus to retain or delete? **(no handout)**
22. IFC 605.4: There are some who are enforcing and citing violations for what has been deemed by the STRB as acceptable to use. Should this section be clarified at ICC, NEC or the VUSBC/VFPC to ensure uniform enforcement? Consensus to leave as is or modify? **(no handout)**
23. IFC 703.1: Approved to require annual inspection; there are no holes or damage to fire rated construction. Assumes there is record or documentation and some issue noted with use of being accessible. USBC VMC already requires maintenance of such assemblies. Consensus to move forward as is, change or delete? **(pages 88 - 89)**
24. IFC 807.1 Exceptions 1 and 2, 807.4.3.2: Similar to VSFPC on decorative materials, but not as definitive. Consensus to keep VSFPC text and delete IFC text or go with IFC text? Next question is why not do something similar for corridors? Discussion only. **(pages 90 - 91)**
25. IFC 902/VFPC: Fire extinguisher system - delete VFPC if 2009 IFC fixes. Consensus to delete and use IFC? **(no handout)**
26. IF/VSFPC Chapter 24: Consensus to delete tent and canopy changes as 2009 IFC fixes? **(no handout)**
27. IFC/VSPC 2703.3.1.4: Did 2009 IFC fix cleanup costs? Consensus to keep or delete? **(no handout)**

28. IFC/VSFPC/HB1353 Fireworks Chapter 33: Should the agreement on storage or supervision at M occupancies be inserted into the VFPC/IFC/VUSBC as technical amendment to ensure statewide uniformity despite some issues with what the current law or the VUSBC defines as hazardous limits and “permissible fireworks” being redefined by law out of these hazardous limits? Should there be any links between our different Virginia definitions and federal law? Discussion only. Consensus to add some clarifying language for M occupancies for storage to avoid the same issue from reoccurring elsewhere? **(pages 92 - 100)**
29. IFC 3307.4: Dominion Power cleans stacks and boilers at night not daytime. Current text does permit that where approved by the fire officials. Do we need to have an exception? Discussion only for possible exception as consensus to move forward? **(no handout)**
30. IFC Appendices B fire flow, C hydrants and D access roads: Should these appendices be adopted in the VSFPC related to Chapter 5 or as appendices just put into the VFPC whereby localities can adopt more stringent provisions? Also, as part of discussions on the IRC sprinklers there is an option of putting some of these provisions into the IRC as incentives for mandating sprinklers or as an option to use with incentives. The VUSBC and VSFPC didn’t include any appendices not adopted in the text of the codes. Found not many localities that had adopted any of three appendices as required to us. These appendices in many ICC codes are readily available and can be written into local ordinance as some localities maybe even different from the appendices. **(pages 101 - 107)**
31. IFC 4006 and 4006.1 and 6.2: Approved for R occupancies to have no smoking signs and premise sign that there is oxygen in use for each dwelling unit. Not in IRC so homes out unless licensed. Would cover R-1, R-2, R-3 and R-4. R-4 is licensed facilities, but how enforce in R-1, R-2 and R-3? The premise sign is option but then becomes a uniformity issue too? Do you really need a no-smoking sign in each dwelling room or does the tank come with its own sign as the person moves from room to room? Consensus to move forward as is or with changes? **(pages 108 - 110)**
32. IFC USBC 1027.17.2: Requires retrofit existing I-2 in patient rooms of certain size. Discussion. **(no handout)**
33. SFPC and STRB: Propane trucks parking: Fairfax now local ordinance to prohibit, but prior to that interpretation on NFPA means by “congested areas” and can local fire ordinances be enforced retroactively? What is application of provisions to new or existing propane parking and does application mean there has to be a NOV issues 1<sup>st</sup> or a written response on the applicable sections? **(no handout)**

#### **2009 VUSBC:**

1. Section 102.3 #1 and 202: Are telephone poles/transmission towers covered as structure or exempted as public utilities? Should they be covered, then does it make sense to have permit exemption and what scope? Should state law be changed? Discussion only. **(pages 111 - 114)**

2. Section 102.3 #5: Pods, containers and sheds USBC or IBSR? IBSR change to say not covered unless has interior walls not just open framing members? Discussion only and need fix consensus to move forward regulations/legislation? **(pages 111 - 114)**
3. Section 102.3 #6: Farm buildings still an issue with new uses such as churches, breweries, assembly events. Discussion only. **(page 115)**
4. Section 102.3: Portable stages covered by the USBC? Yes? Discussion only. **(page 115)**
5. USBC 103.2: Effective date of codes 1 year from regulation's effective date? **(page 121)**
6. Section 103.5 #4: Should this section be deleted for energy or other requirements like done last cycle for decks and impact on IEBC? Discussion only, code changes and consensus to move forward? **(no handout)**
7. Section 104.1 and 36-105( C)2 and 3: Need to coordinate in the VCC and VMC for inspection warrants for unsafe conditions. Consensus in concept to move forward code change? **(page 123)**
8. Section 108.2: Exemption for replacement of HVAC systems to now require a permit? **(no handout)**
9. Section 115.2: Keystone Builders code change. Not sure stated intent is accomplished as written. Can this already be done by current, more flexible language since most permits are taken out by builders, contractors and tenants; so, violations go to them first and not always to the owners? **(no handout)**
10. F203: fire pump and electrical rooms where NEC has construction requirements used for decades. IBC no requirements so clarify in USBC that those NEC construction requirements for ratings, exits and widths are permissible to use. Consensus to move forward to avoid interpretation issues? **(no handout)**
11. Sections 104, 109.3, 115.8.1 and 106.2 TRB Culpepper: Code change to avoid circumstances where local boards set the 3<sup>rd</sup> party policy for individuals/companies. Two possible code changes to consider reinforcing that local governing bodies cannot be altering the code or affecting construction except to the extent permitted by law and regulations. Consensus to move forward changes, amend or leave as is? **(page 128)**
12. Section 103.3, 3410.2.1, VRC: Change of occupancy to require trade work be brought up to new code? Fixed for compliance alternatives but less in VRC. Discussion only. **(page 138)**
13. Section VCC105, VMC 104.4, VADR 5-31-50: Clarify and link 3 sections so it is clear 16 hours can be in any code areas in the policy regardless of certification such as amusement rides. Consensus to move forward with staff code change? **(page 139)**

14. Sections 105.1.4, 105.2.3, 105.1.4, 105.2.3, 113.7.2 and 202: Requires 3<sup>rd</sup> parties and contract employees to do the CEU's and periodic training. Now done by local policies. What are pluses and minus? What about IBSR inspectors? Time element of 12 or 18 months for contract employees is deleted. Need to amend the SFPC? Consensus to amend, move forward or delete? **(page 140)**
15. Section 108.2.10.1: Exempts replacement of windows. Can permit be required for the emergency egress window? Is this emergency window part of the MOE thus not exempted? Discussion only. **(no handout)**
16. Section 108.2 #4: 2008 legislation introduced to increase exemption on tents from 900 square feet to say 1200 square feet. Discussion only. Will have proponent suggest a number. **(page 141)**
17. Section 108.2 #8 and Appendix H101.2 sign size not needing permit? Discussion only. **(no handout)**
18. SCRF and adult care should be included for up to 8 persons? Discussions only. **(no handout)**
19. 202 Building: Excludes VDOT bridges. Legislation to do same for private bridges. A former VDOT bridge given to landowner who then did work on it and local asked if could or must ask for a permit? Discussion only. Would need legislation. **(no handout)**
20. 202 emergency communication equipment: ICC has a code change so will need to keep or delete. ICC code change is more complex, stringent, costly and broader in scope. Consensus to keep USBC or go with IFC? **(no handout)**
21. USBC 421 MHSR and IBSR: Revisions to clarify inspection duties and what falls under these two regulations and USBC. To prescribe in each regulation that installers shall contact BO for all inspections especially bolting and anchoring processes. Consensus to move amendment forward? **(no handout)**
22. Remove I-3 DOC changes approved. Only 1-2 failed. Consensus to delete and retain 1-2 that failed for this cycle? **(no handout)**
23. Glitches: Correct fire alarm sections Sections 903.4.2 and 907.2.9 and tracer wire. Consensus to fix and move forward? **(page 143)**
24. Section 902: Fire extinguisher system can we delete as in the IBC/IFC? Consensus to delete? **(no handout)**
25. Section 903.2.1.4: A-4 would now delete Exception would now do floor sprinklers based on there are other events. Need to hear from designers and owners and locals where there are problems/incidents? Fire data? Consensus to retain Exception or delete? **(page 145)**

26. 903.2.2: E reduced from 20,000 to 12,000square feet. Impact on private schools? Most new public E's buildings. Additions? Input from school districts and state and private sector. Fire data need for Virginia. Consensus to change or leave as is? **(no handout)**
27. Section 903.2.6: M took to zero upholstered stores from 12,000 square feet. Can be in S and not sprinkled. Based on Charleston incident. Impact on smaller stores with C of C? Consensus to keep or retain current 12,000square feet? **(no handout)**
28. B occupancy upgraded Ambulatory Surgical Centers. Good change to come closer to CMS requirements. Discussion only. In Work Group 3. **(no handout)**
29. 1015.2.1 Exception 2: Can we delete? Consensus to delete if in IBC? **(no handout)**
30. USBC 407.8, IBC1008.1.8.6 E51: Does new I-2 special locking allow deletion of this state change? Consensus to go to new IBC or leave as is? Same for 407.9 for emergency power? **(no handout)**
31. USBC VMC 103.2 and 105.3, 105.3.1: Discuss unsafe not related to maintenance and faulty design, local codes pre-1972, pre-local codes/historic buildings, CO issued for older buildings not constructed under a local or state code. USBC 116.4 for CO issuance for existing buildings without a Company of which are very old built without codes. Do we need to clarify relationship of VMC and SFPC for a CO meaning only maintenance and not wholesale update to new codes or items not enforceable under theVMC and SFPC? Seems might want 116.4 in the VMC? **(no handout)**
32. USBC VMC 404.5: Should there be an age for children exempted from the 50s.f when with one parent? **(page 146)**
33. Appendix E adopt so can ensure USBC is approved by DOJ for safe harbor. Mailboxes, bank fixtures, text phones, etc not under USBC. Discussions. **(no handout)**
34. Should the USBC consider universal design options? **(no handout)**
35. CO alarms for IBC: SB853 failed to pass but in IRC. Should they be required for new R-occupancies or existing ones? Need code changes submitted. **(page 148)**
36. MOA's DEQ, VDH, DOLI, FOG grease interceptors? **(page 151)**
37. 2009 Legislative review. **(page 170)**
38. Errors review. **(page 179)**

**Work Group 2 will meet April 30, 2009 at DHCD 1<sup>st</sup> floor Board Room commencing at 9:30a.m.**

Date: 3-9-09

**Board of Housing and Community Development (BHCD), Fire Services Board (FSB) and BHCD's Codes and Standards Committee 2009 Regulatory Action and Meeting Dates:**

**These dates are subject to change**

**January 26, 2009:** BHCD presented with 2009 regulatory schedule

**March 23, 2009:** BHCD approves Notice of Intended Regulatory Action (NOIRA)

**May 18, 2009:** BHCD's Codes and Standards Committee meet at approximately 11:00a.m to 4:00 at DHCD 1<sup>st</sup> floor board room right after the BHCD board meeting that will be from 9:30 to 11:00. Four Work Groups, advisory committees, Fire Services Code Committee and associations should have identified their 2009 code changes and where possible gain consensus.

**June 22, 2009:** BHCD's Codes and Standards Committee meet to review non-consensus items at DHCD 1<sup>st</sup> floor board room 9:30 to 4:00.

**July 27, 2009:** BHCD Meeting at VDHA at 4224 Cox Road (Innsbrook) 1<sup>st</sup> floor. Public hearing BHCD and FSB at 9:30, Codes and Standards Committee following hearing at approximately 11:00 to 12:15 and BHCD Board meeting 1:00 to approve the 2009 proposed regulations.

**August, September, and October, 2009:** No meetings as regulations are approved for publication and 60 days comment period.

**November 16th/December 21<sup>st</sup>, 2009:** BHCD's Codes and Standards Committee would meet to review public comments on the proposed regulations, carry-over code changes and new code changes.

**January 18<sup>th</sup> or 25<sup>th</sup>, 2010:** BHCD and FSB hold public hearing on the proposed regulations.

**March 1, 2010:** Deadline for new code changes.

**May 17, 2010:** BHCD's Codes and Standards Committee meet to consider all code changes not approved, public comments or any new code changes and a final review of the regulations and approval to submit for the BHCD to approve.

**June 21, 2010:** BHCD approve final regulations with input from the FSB on the SFPC. Codes and Standards Committee short meeting prior to the BHCD meeting.

**September 30, 2010:** Effective date of final regulations if approved by the OAG and Governor's Office

Date: 3-9-09

**2009 BHCD Regulatory Cycle Schedule and Meetings for the USBC, SFPC, VADR, VCS, MHSR and the IBSR:**

**March 19, 2009:** Work Group 2 Administrative, technical amendments from the 2006 regulations and the SFPC meets

**March 23, 2009:** BHCD approves the publication of the NOIRA's for each regulation.

**March 26, 2009:** Work Group 1 Energy meets:

**April 2, 2009:** Work Group 3 model codes technical amendments meets:

**April 9, 2009:** Work Group 4 International Residential Code meets:

**April 23, 2009:** Work Group 1 Energy meets:

**April 30, 2009:** Work Group 2 Administrative, technical amendments and the SFPC meets:

**May 6, 2009:** Work Group 3 model codes technical amendments meets:

**May 13, 2009:** Work Group 4 International Residential Code meets:

**May 18, 2009:** BHCD's Codes and Standards Committee meets 1<sup>st</sup> floor board room at DHCD approximately 11:00 to 4:00 following the regular scheduled BHCD meeting.

**June 22, 2009:** BHCD's Codes and Standards Committee meets 1<sup>st</sup> floor board room at DHCD, 9:30 -4:00.

**July 27, 2009:** BHCD and Fire Services Board hold public hearing at 9:30, Codes and Standards Committee at approximately 11:00 to 12:15 and at 1:00 the BHCD meets to approve the draft regulations. Meeting at VDHA in Innsbrook at 4224 Cox Road, 1<sup>st</sup> floor.

**August to October, 2009:** 60 day public comment period for the proposed USBC, SFPC and related regulations

**November 16<sup>th</sup> or December 21<sup>st</sup>, 2009:** BHCD's Codes and Standards Committee meets to consider public comments, carry-over code changes from the Work Groups 1-4 meetings and any new code changes.

**January 18<sup>th</sup> or 25<sup>th</sup>, 2010:** BHCD and Fire Service Board hold 2<sup>nd</sup> public hearing.

**March 1, 2010:** Deadline for 2009 code changes.

**May 17, 2010:** BHCD's Codes and Standards Committee meets to consider all remaining code changes and approve the final regulations for submission to the full BHCD.

**June 21, 2010:** BHCD approve final regulations with input from the FSB.

**Effective Date: September 30, 2010**

VIRGINIA INDUSTRIALIZED BUILDING SAFETY REGULATIONS (13 VAC 5-91)  
(Proposed Revisions for the 2009 State Building and Fire Regulations)

February 6, 2009 Draft

13 VAC 5-91-10. Definitions.

The following words and terms when used in this chapter shall have the following meaning unless the context clearly indicates otherwise.

“Administrator” means the Director of DHCD or his designee.

“Approved” as applied to a material, device, method of construction, registered building, or as otherwise used in this chapter means approved by the administrator.

“Building official” means the officer or other designated authority charged with the administration and enforcement of the USBC, or duly authorized representative.

“Compliance assurance agency” means an architect or professional engineer registered in Virginia, or an organization, determined by DHCD to be specially qualified by reason of facilities, personnel, experience, and demonstrated reliability, to investigate, test and evaluate industrialized buildings; to list such buildings complying with standards at least equal to this chapter; to provide adequate follow-up services at the point of manufacture to ensure that production units are in full compliance; and to provide a label as evidence of compliance on each registered industrialized building manufactured section or module .

“DHCD” means the Virginia Department of Housing and Community Development.

“ICC” means the International Code Council, Inc.

“Industrialized building” means a combination of one or more sections or modules, subject to state regulations and including the necessary electrical, plumbing, heating, ventilating, and other service systems, manufactured off-site and transported to the point of use for installation or erection, with or without other specified components, to comprise a finished building. Manufactured homes defined in § 36-85.3 of the Code of Virginia and certified under the provisions of the National Manufactured Housing Construction and Safety Standards Act (42 USC § 5401 et seq.) shall not be considered industrialized buildings for the purpose of this law.

“Model” means a specific design of an industrialized building designated by the producer of the building including production buildings with variations and options that do not affect compliance with the standards governing structural, plumbing, mechanical, or electrical systems or any other items governed by this chapter.

“Registered” means an industrialized building which displays a registration seal issued by DHCD in accordance with this chapter.

“SBCAO” means the State Building Code Administrative Office within DHCD.

“State Review Board” means the Virginia State Building Code Technical Review Board as established by § 36-108 of the Code of Virginia.

“This law” means the Virginia Industrialized Building Safety Law as embraced in Chapter 4 (§ 36-70 et seq.) of Title 36 of the Code of Virginia.

“USBC” means the Virginia Uniform Statewide Building Code (13 VAC 5-63).

13 VAC 5-91-20. Application and compliance.

~~A. This chapter shall apply to industrialized buildings. The following provisions are in In~~ accordance with § 36-81 of the Code of Virginia, Registered registered industrialized buildings shall be acceptable in all localities as meeting the requirements of the Industrialized Building Safety Law (Chapter 4 (§ 36-70 et seq.) of Title 36 of the Code of Virginia), which shall supersede the building codes and regulations of the counties, municipalities and state agencies. Local requirements affecting industrialized buildings, including zoning, utility connections, preparation of the site and maintenance of the unit shall remain in full force and effect. All building officials are authorized to and shall enforce the provisions of this law, and the rules and regulations made in pursuance thereof the Industrialized Building Safety Law (Chapter 4 (§ 36-70 et seq.) of Title 36 of the Code of Virginia) and this chapter .

~~B. In accordance with § 36-78 of the Code of Virginia, No~~ no person, firm or corporation shall offer for sale or rental, or sell or rent, any industrialized building subject to any provisions of this chapter if the industrialized building is not in compliance with any such provisions unless it conforms with the applicable provisions of this chapter .

~~C. In accordance with subsection A of this section, the provisions of the USBC shall not be applicable to the design and construction of registered industrialized buildings. However, the provisions of this chapter do not prohibit the administrative provisions of the USBC for permits, inspections, certificates of occupancy and other matters from being applicable to the extent they are not addressed by the requirements of this chapter. Additionally, the provisions of this chapter do not prohibit alterations and additions to existing industrialized buildings from being regulated by the USBC or building officials from requiring the submission of plans and specifications for the model involved in electronic or other available format to aid in the evaluation of the proposed addition or alteration.~~

~~D. § 36-78 of the Code of Virginia, Industrialized buildings any industrialized building constructed prior to before January 1, 1972, shall remain subject to the ordinances, laws or regulations in effect at the time such industrialized building was constructed. Additionally, the provisions of this chapter do not prohibit pertinent provisions of the USBC from being applicable when such industrialized buildings are relocated. Additionally, as a requirement of this chapter, any industrialized building bearing the label of a compliance assurance agency shall remain subject to the provisions of this chapter which were effective when such building was constructed, regardless of whether the building has been relocated.~~

D. In accordance with § 36-99 of the Code of Virginia and in accordance with the USBC, the installation or erection of industrialized buildings and alterations, additions or repairs to

industrialized buildings are regulated by the USBC and not this chapter. The USBC provides for administrative requirements for permits, inspections and certificates of occupancy for such work.

E. Shipping containers and portable on demand storage (PODS) containers are not subject to this chapter.

### 13 VAC 5-91-30. Purpose.

The purpose of this chapter is to ensure safety to life, health, and property through compliance with uniform statewide construction standards for industrialized buildings.

### 13 VAC 5-91-40. Inspection and enforcement.

A. The SBCAO is designated as the administrator's representative for the enforcement of this chapter and shall act as the building official for registered industrialized buildings. It shall have authority to make such inspections during reasonable hours at the manufacturing facilities and at building sites where industrialized buildings are being installed. The SBCAO shall have authority to issue inspection reports for correction of violations caused by the manufacturer and to take such other actions as are required to enforce this chapter.

B. The SBCAO will maintain a list of approved compliance assurance agencies. Each manufacturer producing registered industrialized buildings will contract with one or more compliance assurance agencies for required evaluation, monitoring and inspection services. The contract will delineate the services to be provided by the compliance assurance agency. The compliance assurance agency will notify the SBCAO within 30 days of signing a new contract or terminating an existing contract with any manufacturer.

### 13VAC5-91-50. ~~Factory and field inspections~~ Right of entry and examination by Administrator .

~~A. The SBCAO shall conduct such inspections of factories producing industrialized buildings as may be necessary during reasonable hours to determine whether the designated compliance assurance agency is performing its evaluation and compliance assurance functions in a satisfactory manner.~~

~~B. The SBCAO may also make inspections during reasonable hours to determine whether unoccupied industrialized buildings are in compliance with this chapter. Such inspections may include, but are not limited to, industrialized buildings on dealer lots or industrialized buildings that are otherwise offered for sale to the public. Occupied industrialized buildings may be inspected by the SBCAO at the request of the owners or occupants. In accordance with § 36-82 of the Code of Virginia, the administrator shall have the right, at all reasonable hours, to enter into any industrialized building upon permission of any person who has authority or shares the use, access or control over the building, or upon request of local officials having jurisdiction, for examination as to compliance with this chapter.~~

### 13VAC5-91-60. ~~Violations~~ Notice of Violation .

In accordance with § 36-82 of the Code of Virginia, Where whenever the administrator finds shall find any violation of the provisions of this chapter, a notice of violation shall be issued.

~~This notice of violation shall order the party responsible~~ he shall order the person responsible therefore to bring the unit building into compliance , within a reasonable time , to be fixed in the order . In addition, as a requirement of this chapter, The the administrator may request assistance from the building official for enforcement of this section.

#### 13 VAC 5-91-70. Appeals.

~~A. In accordance with § 36-82.1 of the Code of Virginia, Appeals~~ appeals from building officials, compliance assurance agencies or manufacturers of industrialized buildings concerning DHCD's application of this chapter shall be heard by the State Review Board established by § 36-108 of the Code of Virginia. The State Review Board shall have the power and duty to render its decision in any such appeal, which decision shall be final if no further appeal is made. In addition, as a requirement of this chapter, appeals shall be submitted to the State Review Board within 21 calendar days of receipt of DHCD's decision. A copy of the decision of DHCD to be appealed shall be submitted with the application for appeal. Failure to submit an application for appeal within the time limit established by this section shall constitute acceptance of DHCD's decision.

~~B. Procedures of the State Review Board are in accordance with Article 2 (§ 36-108 et seq.) of Chapter 6 of Title 36 of the Code of Virginia. Decisions of the State Review Board shall be final if no appeal is made therefrom.~~

#### 13 VAC 5-91-80. Limitation of manufacturer's liability.

The manufacturer of a registered industrialized building shall not be required to remedy violations caused by on-site work by others not under his control or violations involving components and materials furnished by others and not included with the registered industrialized building.

#### 13 VAC 5-91-90. Penalty for violation.

In accordance with § 36-83 of the Code of Virginia, any person, firm or corporation violating any provisions of this chapter shall be considered guilty of a Class 1 misdemeanor and, upon conviction, shall be fined not more than \$1,000.

#### 13VAC5-91-100. Duties and responsibilities of building officials in the installation or erection of a registered industrialized building.

~~A. All Building building officials are authorized by § 36-81 of the Code of Virginia to enforce the provisions of this chapter and shall carry out the following functions provided such functions do not involve disassembly of the registered building or a change in its design or result in the imposition of more stringent conditions than those required by the compliance assurance agency or by this chapter: be responsible for and authorized to do the following:~~

1. Verify through inspection that the registered industrialized building displays the required state registration seal and the proper label of the compliance assurance agency and .

2. Verify through inspection that the registered industrialized building has not been damaged in transit to a degree that would render it unsafe. If the building has been damaged, then the building official is authorized to require tests for tightness of plumbing systems and gas piping , and tests for damaged or loose wires, or both, in the electrical system short circuits at meter connections .

2. Verify through inspection that (i) supplemental components required by the data plate or by the installation instructions are properly provided and properly installed, (ii) the construction work associated with the installation of the building and the instructions from the manufacturer for the installation and erection of the building are followed, and (iii) any special conditions or limitations of use for the building that are stipulated in the manufacturer's instructions or by the data plate and authorized by this chapter are followed.

3. Prevent the use or occupancy of a registered industrialized building which in the opinion of the building official contains a serious defect or imminent safety hazard and notify the SBCAO immediately.

4. Notify the SBCAO of any apparent violations of this chapter to include defects and noncompliance.

~~B. Building officials are authorized to require submission of plans and specifications for details of items needed to comprise the finished building that are not included or specified in the manufacturer's installation instructions such as footings, foundations, supporting structures and proper anchorage. They may require such architectural and engineering services as may be necessary to assure that the footings, foundations and supporting structures, proper anchorage and other components necessary to comprise the finished building are designed in accordance with the applicable provisions of this chapter.~~

~~C. When a building official determines that a violation of any provision of this section is present, the responsible person shall be notified and given a reasonable time to correct the violation. If the violation is not corrected, the building official shall institute the appropriate proceedings to require correction or abatement of the violation and may prohibit the occupancy of the building until the violation is corrected. In accordance with 13 VAC 5-91-60, the administrator shall also have the authority to compel correction of violations of this section and may be contacted by the building official for assistance. In accordance with § 36-99 of the Code of Virginia and the USBC, all site work associated with the installation or erection of an industrialized building is subject to the USBC. In addition, under the USBC, all administrative requirements for permits, inspections and certificates of occupancy are also applicable.~~

13 VAC 5-91-115. Change of occupancy classification.

When the occupancy classification of a registered industrialized building is proposed to be changed, a compliance assurance agency shall inspect the building, including any disassembly necessary, to determine whether compliance may be achieved for a change of occupancy classification in accordance with the USBC. If factory plans are available, then disassembly is not required to the extent that the factory plans can be reasonably verified to reflect the actual construction. Once any necessary work is completed, the compliance assurance agency shall

prepare a report documenting the method utilized for the change of occupancy and any alterations to the building to achieve compliance. When the report is complete, the compliance assurance agency shall (i) mark the building with a new compliance assurance agency label in accordance with 13 VAC 5-91-210, which replaces the existing label; (ii) place a new manufacturer's data plate on the building in accordance with 13 VAC 5-91-245, which replaces the existing manufacturer's data plate and reflects the new occupancy classification; and (iii) forward a copy of the report and new data plate to the SBCAO.

### 13 VAC 5-91-120. Unregistered industrialized buildings.

A. The building official shall determine whether any unregistered industrialized building complies with this chapter and shall require any noncomplying unregistered building to be brought into compliance with this chapter. The building official shall enforce all applicable requirements of this chapter including those relating to the sale, rental and disposition of noncomplying buildings. The building official may require submission of full plans and specifications for each building. Concealed parts of the building may be exposed to the extent necessary to permit inspection to determine compliance with the applicable requirements. The building official may also accept reports of inspections and tests from individuals or agencies deemed acceptable to the building official.

B. Unregistered industrialized buildings offered for sale in this Commonwealth shall be marked by a warning sign to prospective purchasers that the building is not registered in accordance with this chapter and must be inspected and approved by the building official. The sign shall be of a size and form approved by the administrator and shall be conspicuously posted on the exterior of the unit near the main entrance door. This requirement shall not apply to residential accessory buildings.

C. An existing unregistered industrialized building may be registered in accordance with the following:

1. Where an unregistered building was constructed under an industrialized building program of another state and approved under such program, a compliance assurance agency shall prepare a report based on review of the plans and specifications and inspection of the building to determine whether there is compliance with the construction requirements of this chapter that were in effect on the date of manufacture of the building. If compliance is determined, the compliance assurance agency shall (i) mark the building with a compliance assurance agency label in accordance with 13 VAC 5-91-210, (ii) place a new manufacturer's data plate on the building in accordance with 13 VAC 5-91-245, (iii) mark the building with a registration seal in accordance with 13 VAC 5-91-260, and (iv) forward a copy of the report and new data plate to the SBCAO.

2. Where an unregistered building was not approved under an industrialized building program of another state, and the date of manufacture can be verified, the compliance assurance agency shall inspect the building, including any disassembly necessary, to determine whether there is compliance with the construction requirements of this chapter that were in effect on the date of manufacture of the building. When factory plans are available, then disassembly is not required to the extent that the factory plans can be verified to reflect the actual construction of the building. When compliance with the

construction requirements of this chapter that were in effect on the date of manufacture of the building is achieved, the compliance assurance agency shall prepare a report documenting compliance, outlining any changes made to the building, and certifying the building in accordance with clauses (i) through (iv) of subdivision 1 of this subsection.

3. When the date of manufacture of the existing unregistered building cannot be verified, the building shall be evaluated for compliance with the codes and standards specified in 13 VAC 5-91-160. The compliance assurance agency shall inspect the building, including any disassembly necessary, to determine whether there is compliance with these construction requirements. If compliance is achieved, the compliance assurance agency shall prepare a report documenting compliance, outlining any changes made to the building, and certifying the building in accordance with clauses (i) through (iv) of subdivision 1 of this subsection.

#### 13 VAC 5-91-130. Disposition of noncomplying building.

When a building is found to be in violation of this chapter, the building official may require the violations to be corrected before occupancy of the building is permitted.

#### 13 VAC 5-91-140. Report to the SBCAO.

If the building is moved from the jurisdiction before the violations have been corrected, the building official shall make a prompt report of the circumstances to the SBCAO. The report shall include all of the following:

1. A list of the uncorrected violations.
2. All information contained on the label pertinent to the identification of the building, the manufacturer and the compliance assurance agency.
3. The number of the Virginia registration seal.
4. The new destination of the building, if known.
5. The party responsible for moving the building.

#### 13 VAC 5-91-150. When modification may be granted.

A. The administrator shall have the power upon request in specific cases to authorize modification of this chapter so as to permit certain specified alternatives where the objectives of this law can still be fulfilled. Such request shall be in writing and shall be accompanied by the plans, specifications and other information necessary for an adequate evaluation of the modification requested.

B. Before a modification is authorized, the building official may be afforded an opportunity to present his views and recommendations.

#### 13 VAC 5-91-160. Use of model codes and standards.

A. Industrialized buildings produced after ~~May 1, 2008~~ (date to be inserted) , shall ~~be reasonably safe for the users and shall provide reasonable protection to the public against hazards to life, health and property. Compliance~~ comply with all applicable requirements of the following codes and standards, subject to the specified time limitations , ~~shall be acceptable evidence of compliance with this provision :~~

The following codes and standards may be used until ~~August 1, 2008~~ (date to be inserted) :

1. ICC International Building Code -- ~~2003~~ 2006 Edition
2. ICC International Plumbing Code -- ~~2003~~ 2006 Edition
3. ICC International Mechanical Code -- ~~2003~~ 2006 Edition
4. National Fire Protection Association Standard Number 70 (National Electrical Code) -- ~~2002~~ 2005 Edition
5. ICC International Residential Code -- ~~2003~~ 2006 Edition

B. The following documents are adopted and incorporated by reference to be an enforceable part of this chapter:

1. ICC International Building Code -- ~~2006~~ 2009 Edition
2. ICC International Plumbing Code -- ~~2006~~ 2009 Edition
3. ICC International Mechanical Code -- ~~2006~~ 2009 Edition
4. National Electrical Code -- ~~2005~~ 2008 Edition
5. ICC International Residential Code -- ~~2006~~ 2009 Edition

The codes and standards referenced above may be procured from:

International Code Council, Inc.  
500 New Jersey Avenue, NW, 6th Floor  
Washington, DC 20001-2070

13 VAC 5-91-170. Amendments to codes and standards.

A. All requirements of the referenced model codes and standards that relate to fees, permits, certificates of use and occupancy, approval of plans and specifications, and other procedural, administrative and enforcement matters are deleted and replaced by the procedural, administrative and enforcement provisions of this chapter and the applicable provisions of Chapter 1 of the USBC.

B. The referenced codes and standards are amended as set forth in the USBC.

13 VAC 5-91-180. Compliance assurance agencies.

Application may be made to the SBCAO for acceptance as a compliance assurance agency. Application shall be made under oath and shall be accompanied by information and evidence that is adequate for the SBCAO to determine whether the applicant is specially qualified by reason of facilities, personnel, experience and demonstrated reliability to investigate, test and evaluate industrialized buildings for compliance with this chapter, and to provide adequate follow-up and compliance assurance services at the point of manufacture.

13 VAC 5-91-190. Freedom from conflict of interest.

A compliance assurance agency shall not be affiliated with, nor influenced or controlled by, producers, suppliers or vendors of products in any manner which might affect its capacity to render reports of findings objectively and without bias. A compliance assurance agency is judged to be free of such affiliation, influence and control if it complies with all of the following conditions:

1. The agency has no managerial affiliation with producers, suppliers or vendors and is not engaged in the sale or promotion of any product or material.
2. The results of the agency's work accrue no financial benefits to the agency through stock ownership of, or other similar affiliation to, any producer, supplier or vendor of the product involved.
3. The agency's directors and other management personnel in their job capacities receive no stock option or other financial benefit from any producer, supplier or vendor of the product involved.
4. The agency has sufficient interest or activity that the loss or award of a specific contract to determine compliance of a producer's, supplier's or vendor's product with this chapter would not be a determining factor in its financial well-being.
5. The employment security status of the agency's personnel is free of influence or control by producers, suppliers or vendors.

13 VAC 5-91-200. Information required by the administrator.

All of the following information and criteria will be considered by the administrator in designating compliance assurance agencies:

1. Names of officers and location of offices.
2. Specification and description of services proposed to be furnished under this chapter.
3. Description of qualifications of personnel and their responsibilities, including an assurance that personnel involved in system analysis, design and plans review, compliance assurance inspections, and their supervisors shall comply with the

requirements of the American Society for Testing and Material (ASTM) Standard Number E541-01 – Standard Specification for Agencies Engaged in System Analysis and Compliance Assurance for Manufactured Building or shall obtain ICC or DHCD certifications in the appropriate subject area within 18 months of employment and maintain such certifications in an active status .

4. Summary of experience within the organization.

5. General description of procedures and facilities to be used in proposed services, including evaluation of the model, factory follow-up, quality assurance, labeling of production buildings, and specific information to be furnished on or with labels.

6. Procedures to deal with any defective buildings resulting from oversight.

7. Acceptance of these services by independent accrediting organizations and by other jurisdictions.

8. Proof of independence and absence of conflict of interest.

The ASTM Standard Number E541-01 may be procured from:

American Society for Testing and Materials  
100 Barr Harbor Drive  
West Conshohocken, PA 19428-2959

13 VAC 5-91-210. Compliance assurance agency certification label.

Every manufactured section or module of a registered industrialized building shall be marked with a label supplied by the compliance assurance agency that includes the name and address of the compliance assurance agency and the certification label number.

13 VAC 5-91-220. Mounting of label.

To the extent practicable, the label shall be installed so that it cannot be removed without destroying it. The label shall be applied in the vicinity of the electrical distribution panel or in another location that is readily accessible for inspection. When a building is comprised of more than one section or module, the required ~~label labels~~ may be ~~furnished as a single label for the entire~~ placed in one location in the completed building provided each section or module is marked by the compliance assurance agency in a clearly identifiable manner provided with or on the label .

13 VAC 5-91-240. Label control.

The labels shall be under direct control of the compliance assurance agency until applied by the manufacturer to buildings that comply fully with this chapter. The manufacturer shall place its order for labels with the compliance assurance agency. The manufacturer is not permitted to acquire labels from any other source. Each compliance assurance agency shall keep a list of the

serial numbers of labels issued to each manufacturer's plant in such manner that a copy of the record can be submitted to the administrator upon request.

13 VAC 5-91-245. Manufacturer's data plate.

A. All of the following information shall be placed on a permanent manufacturer's data plate in the vicinity of the electrical distribution panel or in some other location that is readily accessible for inspection. The compliance assurance agency shall approve the form and location of the data plate and shall ensure that the data plate is complete:

1. Manufacturer's name and address.
2. Compliance assurance agency certification number.
3. Serial number of each module of the building.
4. Serial number of the Virginia registration seal.
5. Date of manufacture of the building.
6. List of codes and standards under which the building was evaluated and constructed and the type of construction and occupancy classification under those codes and standards.
7. Design roof load, design floor live load ~~and~~ , design wind load and design ground snow load .
8. Seismic design zone number.
9. Thermal transmittance values ~~or~~ , including thermal resistance ("R") values.
10. Special conditions or limitations concerning the use of the building under the codes and standards applicable to the building; however, a list of such conditions or limitations that are furnished separately with the building shall satisfy this requirement.
11. Special instructions for handling, installation and erection of the building,; however, a list of such instructions that are furnished separately with the building shall satisfy this requirement.
12. Designation of electrical service ratings, directions for water and drain connections and, where applicable, identification of permissible type of gas for appliances.
13. Name of manufacturer and model designation of major factory installed appliances.

B. The manufacturer shall maintain copies of the data plate and reports of inspection, tests and any corrective action taken for a minimum period of 10 years from the date of manufacture of the building.

13 VAC 5-91-250. Industrialized buildings eligible for registration.

Any industrialized building must meet all of the following requirements to be registered and eligible for a Virginia registration seal:

1. The design of the building has been found by a compliance assurance agency to be in full compliance with this chapter. Approved designs shall be evidenced by the stamp and date of approval on each design sheet by the compliance assurance agency.
2. The compliance assurance agency has conducted any necessary testing and evaluation of the building and its component parts.
3. The compliance assurance agency has provided the required inspections and other quality assurance follow-up services at the point of manufacture to assure the building complies with this chapter.
4. The building contains the appropriate evidence of such compliance through a label permanently affixed by the compliance assurance agency.

13 VAC 5-91-260. Registration seal for industrialized buildings.

A. Registered industrialized buildings shall be marked with an approved registration seal ~~seals~~ issued by the SBCAO. The ~~seal seals~~ shall be applied by the manufacturer to a registered industrialized building intended for sale or use in Virginia prior to the shipment of the building from the place of manufacture.

B. Registered industrialized buildings shall bear a ~~one~~ registration seal ~~for each dwelling unit in residential occupancies. For nonresidential occupancies, a registration seal is required for each registered building on each manufactured section or module, or, as an alternative, may have the registration seal for each manufactured section or module placed in one location in the completed building .~~

C. Approved registration seals may be purchased from the SBCAO in advance of use. The fee for each registration seal shall be ~~\$75~~ \$50 . ~~Checks shall be~~ Fees shall be submitted by checks made payable to "Treasurer of Virginia - " or shall be submitted by electronic means. Payment for the seals must be received by the SBCAO before the seals can be sent to the user.

D. To the extent practicable, the registration seal shall be installed so that it cannot be removed without destroying it. It shall be installed near the label applied by the compliance assurance agency.

E. The compliance assurance agency or the manufacturer under the supervision of the compliance assurance agency shall maintain permanent records of the disposition of all Virginia registration seals obtained by the compliance assurance agency or manufacturer.

13 VAC 5-91-270. Manufacturer's installation instructions and responsibilities of installers.

A. The manufacturer of each industrialized building shall provide specifications or instructions, or both, with each building for handling, installing or erecting the building. Such instructions may be included as part of the label from the compliance assurance agency or may be furnished separately by the manufacturer of the building. The manufacturer shall not be required to provide the foundation and anchoring equipment for the industrialized building.

B. Persons or firms installing or erecting registered industrialized buildings shall install or erect the building in accordance with the manufacturer's instructions.

C. Where the installation or erection of an industrialized building utilizes components that are to be concealed, the installer shall notify and obtain approval from the building official prior to concealment of such components unless the building official has agreed to an alternative method of verification.

VIRGINIA INDUSTRIALIZED BUILDING SAFETY REGULATIONS (IBSR) (13 VAC 5-91)  
(Proposed Revisions to the Virginia Construction Code to Correlate to Changes in the IBSR for  
the 2009 State Building and Fire Regulations)

February 6, 2009 Draft

421.5 Site work for industrialized buildings. Site work for the erection and installation of an industrialized building ~~is generally subject to the requirements of the Virginia Industrialized Building Safety Regulations (13 VAC 5-91) and the building official has certain enforcement responsibilities under those regulations~~ shall comply with the manufacturer's instructions . To the extent that any aspect of the erection or installation of an industrialized building is not covered by ~~those regulations~~ the manufacturer's instructions , this code shall be applicable including the use of the IRC for any construction work where the industrialized building would be classified as a Group R-5 building . In addition, all administrative requirements of this code for permits, inspections and certificates of occupancy are also applicable. ~~The requirements of the IRC shall be permitted to be used for any construction work that is subject to this code where the industrialized building would be classified as a Group R-5 building.~~ Further, the building official may require the submission of plans and specifications for details of items needed to comprise the finished building that are not included or specified in the manufacturer's instructions, including, but not limited to, footings, foundations, supporting structures, proper anchorage and the completion of the plumbing, mechanical and electrical systems. Where the installation or erection of an industrialized building utilizes components which are to be concealed, the installer shall notify the building official that an inspection is necessary and assure that an inspection is performed and approved prior to concealment of such components, unless the building official has agreed to an alternative method of verification.

421.6 Relocated industrialized buildings; alterations and additions. Industrialized buildings constructed prior to January 1, 1972 shall be subject to Section 117 when relocated. Alterations and additions to any existing industrialized buildings shall be subject to pertinent provisions of this code. Building officials shall be permitted to require the submission of plans and specifications for the model to aid in the evaluation of the proposed alteration or addition. Such plans and specifications shall be permitted to be submitted in electronic or other available format acceptable to the building official.

VIRGINIA MANUFACTURED HOME SAFETY REGULATIONS (13 VAC 5-95)  
(Proposed Revisions for the 2009 State Building and Fire Regulations)

February 6, 2009 Draft

13 VAC 5-95-10. Definitions.

A. The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

“Act” or “the Act” means the National Manufactured Housing Construction and Safety Standards Act of 1974, Title VI of the Housing and Community Development Act of 1974 (42 USC § 5401 et seq.).

“Administrator” means the Director of DHCD or his designee.

“DHCD” means the Virginia Department of Housing and Community Development.

“Dealer” means any person engaged in the sale, lease, or distribution of manufactured homes primarily to persons who in good faith purchase or lease a manufactured home for purposes other than resale.

“Defect” means a failure to comply with an applicable federal manufactured home construction and safety standard that renders the manufactured home or any part of the home unfit for the ordinary use of which it was intended, but does not result in an imminent risk of death or severe personal injury to occupants of the affected home.

“Design Approval Primary Inspection Agency (DAPIA)” means a state agency or private organization that has been accepted by the Secretary, in accordance with the federal regulation, to evaluate and either approve or disapprove manufactured home designs and quality control procedures.

~~“Distributor” means any person engaged in the sale and distribution of manufactured homes for resale.~~

“Federal installation standards” means the federal Model Manufactured Home Installation Standards (24 CFR Part 3285) or any set of state standards that the Secretary has determined provide protection to the residents of manufactured homes that equals or exceeds the protection provided by the installation standards.

“Federal regulation” means the federal Manufactured Home Procedural and Enforcement Regulations, enacted May 13, 1976, under authority granted by § 625 of the Act, and designated as Part 3282, Chapter XX, Title 24 of HUD's regulations (24 CFR Part 3282). (Part 3282 consists of subparts A through L, with sections numbered 3282.1 through 3282.554, and has an effective date of June 15, 1976.)

“HUD” means the United States Department of Housing and Urban Development.

“Imminent safety hazard” means a hazard that presents an imminent and unreasonable risk of death or severe personal injury that may or may not be related to failure to comply with an applicable federal manufactured home construction or safety standard.

“Installation” means completion of work to include but not limited to stabilize, support, anchor, and close up a manufactured home and to join sections of a multi-section manufactured home, when any such work is governed by the federal installation standards or by state installation standards that are certified as part of a qualifying installation program.

“Installer” means the person or entity who is retained to engage in, or who engages in, the business of directing, supervising, controlling, or correcting the initial installation of a manufactured home.

“Label” or “certification label” means the approved form of certification by the manufacturer that, under 24 CFR 3282.362(e)(2)(i) § 3280.8 of the Manufactured Home Procedural and Enforcement Regulations federal standards, is permanently affixed to each transportable section of each manufactured home manufactured for sale to a purchaser in the United States.

“Local code building official” means the officer or other designated authority charged with the administration and enforcement of USBC, or duly authorized representative.

“Manufactured home” means a structure subject to federal regulation, which is transportable in one or more sections; is eight body feet or more in width and 40 body feet or more in length in the traveling mode, or is 320 or more square feet when erected on site; is built on a permanent chassis; is designed to be used as a single-family dwelling, with or without a permanent foundation, when connected to the required utilities; and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure.

“Manufacturer’s installation instructions” means DAPIA-approved instructions provided by the home manufacturer that accompany each new manufactured home and detail the home manufacturer requirements for support and anchoring systems and other work completed at the installation site to comply with the federal installation standards and the federal standards.

“Manufacturer” means any person engaged in manufacturing or assembling manufactured homes, including any person engaged in importing manufactured homes.

“Noncompliance” means a failure of a manufactured home to comply with a federal manufactured home construction or safety standard that does not constitute a defect, serious defect, or imminent safety hazard.

“Purchaser” means the first person purchasing a manufactured home in good faith for purposes other than resale.

“Recreational vehicles” means vehicles which meet all of the following criteria:

1. Built on a single chassis.
2. 400 square feet or less when measured at the largest horizontal projections.
3. Self-propelled or permanently towable by a light duty truck.
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

“Secretary” means the Secretary of HUD.

“Serious defect” means any failure to comply with an applicable federal manufactured home construction and safety standard that renders the manufactured home or any part thereof not fit for the ordinary use for which it was intended and which results in an unreasonable risk of injury or death to occupants of the affected manufactured home.

“Standards” or “federal standards” means the federal Manufactured Home Construction and Safety Standards (24 CFR Part 3280) adopted by HUD, in accordance with authority in the Act. The standards were enacted December 18, 1975, and amended May 11, 1976, to become effective June 15, 1976.

“State administrative agency” or “SAA” means DHCD which is responsible for the administration and enforcement of Chapter 4.1 (§ 36-85.2 et seq.) of Title 36 of the Code of Virginia throughout Virginia and of the plan authorized by § 36-85.5 of the Code of Virginia.

“USBC” means the Virginia Uniform Statewide Building Code (13 VAC 5-63).

B. Terms defined within the federal regulations and standards shall have the same meanings in this chapter.

13 VAC 5-95-20. Application and enforcement.

A. This chapter shall apply to manufactured homes ~~as defined in 13 VAC 5-95-10 and 13VAC5-95-20.~~

B. Enforcement of this chapter shall be in accordance with the federal regulation.

C. Manufactured homes produced on or after June 15, 1976, shall conform to all the requirements of the federal standards, as amended.

D. DHCD is delegated all lawful authority for the enforcement of the federal standards pertaining to manufactured homes by the administrator according to §36-85.5 of the Code of Virginia. The Division of Building and Fire Regulation of DHCD is designated as a state administrative agency in the HUD enforcement program, and shall act as an agent of HUD. The administrator is authorized to perform the activities required of an SAA by the HUD enforcement plan including, but not limited to, investigation, inspections, citation of violations, handling of complaints, conducting hearings, supervising remedial actions, monitoring, and making such reports as may be required.

E. All local ~~code~~ building officials are authorized by § 36-85.11 of the Code of Virginia to enforce the provisions of this chapter ~~within the limits of their jurisdiction. Such local code officials shall enforce this chapter, subject to the general oversight of the Division of Building and Fire Regulation and shall not permit the use of any manufactured home containing a serious defect or imminent safety hazard within their jurisdiction, and shall be responsible for and authorized to do the following:~~

1. Verify through inspection that a manufactured home displays the required HUD label.
2. Determine whether the manufactured home has been damaged in transit to a degree that may make it unsafe. If the manufactured home has been damaged, then the local building official is authorized to require tests for tightness of plumbing systems and gas piping, and electrical short circuits at meter connections.

3. Prevent the use or occupancy of a manufactured home which in the opinion of the local building official contains a serious defect or imminent safety hazard and notify the administrator immediately.
4. Notify the administrator of any apparent violations of this chapter to include defects and noncompliance.

421.2?

F. Mounting and anchoring of manufactured homes shall be in accordance with the applicable requirements of the USBC. In accordance with § 36-99 of the Code of Virginia, all site work associated with the installation of manufactured homes is subject to the USBC. Also, as set out by the USBC, all administrative requirements for permits, inspections and certificate of occupancy are applicable.

G. Recreational vehicles are not subject to this chapter.

13 VAC 5-95-30. Effect of label.

~~A. In accordance with § 36-85.11 of the Code of Virginia, manufactured homes displaying the certification label as prescribed by the federal standards shall be accepted in all localities as meeting the requirements of the Manufactured Housing Construction and Safety Standards Law (Chapter 4.1 (§ 36-85.2 et seq.) of Title 36 of the Code of Virginia) which shall supersede the building codes of the counties, municipalities and state agencies. In addition, as a requirement of this chapter, local code officials shall carry out the following functions with respect to manufactured homes displaying the HUD label, provided such functions do not involve disassembly of the homes or parts of the homes, change of design, or result in the imposition of more stringent conditions than those required by the federal regulations:~~

~~1. Verify through inspection that the manufactured home has not been damaged in transit to a degree that would render it unsafe. If the manufactured home has been damaged, then the local building official is authorized to require tests for tightness of plumbing systems and gas piping, and electrical short circuits at meter connections.~~

~~2. Verify through inspection that (i) supplemental components required by the manufacturer's installation instructions or this chapter are properly provided; (ii) manufacturer's instructions or erection instructions are followed; and (iii) any special conditions or limitations of use stipulated by the manufacturer's installation instructions or the label in accordance with the standards or this chapter are followed.~~

~~B. Local code officials are required by the USBC to enforce applicable requirements of the USBC for utility connections, site preparation, foundations, steps, decks, porches, alterations and additions to existing manufactured homes, building permits, skirting, certificates of use and occupancy, and all other applicable requirements, except those governing the design and construction of the labeled units. In addition, local code officials shall verify that a manufactured home displays the required HUD label.~~

13 VAC 5-95-40. Report to DHCD.

Whenever any manufactured home is moved from a local jurisdiction before a noted violation has been corrected, the local code building official shall make a prompt report of the circumstances to the administrator. The report shall include a list of uncorrected violations, all information pertinent to

identification and manufacture of the home contained on the label and the data plate, the destination of the home if known, and the name of the party responsible for moving it.

### 13 VAC 5-95-50. Alterations.

A. No ~~distributor~~ installer, broker or dealer shall perform or cause to be performed on a new manufactured home any alteration affecting one or more requirements set forth in the federal standards, except those alterations approved by the administrator.

B. In handling and approving dealer requests for alterations on a new manufactured home, the administrator may be assisted by local ~~code~~ building officials. The local ~~code~~ building official shall report violations of subsection A of this section and failures to conform to the terms of their approval to the administrator.

C. In accordance with § 36-99 of the Code of Virginia and in accordance with the USBC, alterations, additions and repairs associated with used manufactured homes are regulated by the USBC and not this chapter. The USBC provides for administrative requirements for permits, inspections and certificates of occupancy and allows the use of Appendix E of the International Residential Code, entitled, "Manufactured Housing Used As Dwellings" as an acceptable alternative to the general requirements of the USBC for construction work associated with additions, alterations and repairs to used manufactured homes.

### 13 VAC 5-95-60. Installations.

~~Distributors or~~ Brokers, dealers installing or installers setting up a new manufactured home shall perform such installation in accordance with the manufacturer's installation instructions ~~or other support and anchoring system approved by the local code official in accordance with the USBC.~~

### 13 VAC 5-95-70. Prohibited resale.

No ~~distributor~~ broker or dealer shall offer for resale any manufactured home possessing a serious defect or imminent safety hazard.

### 13 VAC 5-95-80. Lot inspections.

At any time during regular business hours when a manufactured home is located on a dealer's or ~~distributor's~~ broker's lot and offered for sale, the administrator shall have authority to inspect such home for transit damages, seal tampering, violations of the federal standards and the dealer's or ~~distributor's~~ broker's compliance with applicable state and federal laws and regulations. The administrator shall give written notice to the dealer or ~~distributor~~ broker when any home inspected does not comply with the federal standards.

### 13 VAC 5-95-90. Consumer complaints; ~~on-site inspections.~~

A. The administrator shall receive all consumer complaints on new manufactured homes reported to DHCD by owners, dealers, ~~distributors~~ brokers, ~~code~~ building officials, and other state or federal agencies. The administrator may request such reports to be submitted by letter or on a report form supplied by DHCD or in other format acceptable to the administrator.

B. The administrator may conduct, or cause to be conducted, an on-site inspection of a manufactured home at the request of the owner reporting a complaint with the home or under the following conditions with the permission of the owner of the home:

1. The installer, dealer, distributor or manufacturer requests an on-site inspection;
2. The reported complaint indicates extensive and serious noncompliances;
3. Consumer complaints lead the administrator to suspect that a class of homes may be similarly affected; or
4. Review of manufacturer's records, corrective action, and consumer complaint records leads the administrator to suspect secondary or associated noncompliances may also exist in a class of homes.

C. When conducting an on-site inspection of a home involving a consumer complaint, the administrator may request the dealer, distributor, installer and manufacturer of the home to have a representative present to coordinate the inspection and investigation of the consumer complaint.

D. After reviewing the complaint report or the on-site inspection of the home involved, the administrator shall, where possible, indicate the cause of any nonconformance and, where possible, indicate the responsibility of the manufacturer, dealer, installer, distributor, or owner for the noncompliance and any corrective action necessary.

E. The administrator shall refer to the manufacturer of the home, in writing, any consumer complaint concerning that home reported to the administrator. The administrator may refer any such reported complaint to HUD, to the SAA in the state where the manufacturer is located and to the inspection agency involved with certifying the home.

F. The administrator shall assist the owner, dealer, installer, distributor, and manufacturer in resolving consumer complaints. The administrator shall monitor the manufacturer's performance to assure compliance with Subpart I of the federal regulations for consumer complaint handling and shall take such actions as are necessary to assure compliance of all involved parties with applicable state and federal regulations.

13 VAC 5-95-100. Violation; appeal; penalty.

A. ~~Where the administrator finds any violation of the provisions of this chapter, a notice of violation shall be issued. This notice of violation shall order the party responsible to bring the unit into compliance, within a reasonable time.~~ In accordance with § 36-85.12 of the Code of Virginia, it shall be unlawful for any person, firm or corporation, to violate any provisions of this law, the rules and regulations enacted under authority of this law, or the Federal Law and Regulations. Any person, firm or corporation violating any provision of said laws, rules and regulations, or any final order issued there under, shall be liable for civil penalty not to exceed \$1,000 for each violation. Each violation shall constitute a separate violation with respect to each manufactured home or with respect to each failure or refusal to allow or to perform an act required by the legislation or regulations. The maximum civil penalty may not exceed one million dollars for any related series of violations occurring within one year from the date of the first violation. An individual or a director, officer, or agent of a

corporation who knowingly and willfully violates Section 610 of the National Manufactured Housing Construction and Safety Standards Act in a manner which threatens the health or safety of any purchaser shall be deemed guilty of a Class 1 misdemeanor and upon conviction fined not more than \$1,000 or imprisoned not more than one year, or both.

~~B. Parties aggrieved by the findings of the notice of violation may appeal to~~ In accordance with § 36-114 of the Code of Virginia, the State Building Code Technical Review Board, ~~which shall act on the appeal in accordance with the provisions of the USBC. The aggrieved party shall file the appeal within 10 days of the receipt of the notice of violation. Unless the notice of violation is revoked by the review board, the aggrieved party must comply with the stipulations of the notice of violation.~~ shall have the power and duty to hear all appeals from decisions arising under the application of this chapter. Appeals concerning application of the federal regulations or federal standards by the administrator shall be in accordance with the federal regulations.

~~C. Any person, firm or corporation violating any provisions of this chapter shall, upon conviction, be considered guilty of a misdemeanor in accordance with § 36-85.12 of the Code of Virginia.~~

VIRGINIA MANUFACTURED HOME SAFETY REGULATIONS (MHSR) (13 VAC 5-91)  
(Proposed Revisions to the Virginia Construction Code to Correlate to Changes in the MHSR for  
the 2009 State Building and Fire Regulations)

February 6, 2009 Draft

VCC Section 421.2 Site work for manufactured homes.

~~The installation of a manufactured home is generally subject to the requirements of the Virginia Manufactured Home Safety Regulations (13 VAC 5-95). Under those regulations, the building official is responsible for assuring that the installation complies with the manufacturer's installation instructions and any special conditions or limitations of use stipulated by the label. To the extent that any aspect of the installation is not provided for in the manufacturer's installation instructions, then the installation shall comply with applicable requirements of this code. In the case where the manufacturer's installation instructions for a manufactured home are not available, the NCSBCS/ANSI A225.1 standard, 1994 edition, may be substituted for the manufacturer's installation instructions. Foundations, stoops, decks, porches, alterations and additions associated with manufactured homes are subject to the requirements of this code and all administrative requirements of this code for permits, inspections and certificates of occupancy are also applicable. The requirements of the IRC shall be permitted to be used for the technical requirements for such construction work. In addition, Appendix E of the IRC entitled, "Manufactured Housing Used As Dwellings," shall be an acceptable alternative to this code for construction work associated with the installation of manufactured homes and for additions, alterations and repairs to manufactured homes. The aspects for the installation and set up of a manufactured home covered by this code rather than the Virginia Manufactured Home Safety Regulations (13 VAC 5-95) include, but are not limited to, footings, foundations systems, anchoring of the home, exterior and interior close-up, stoops, decks, porches, additions and alterations. Such aspects shall be subject to and shall comply with the installation instructions provided by the manufacturer of the home. To the extent that the manufacturer's installation instructions do not address any aspect enumerated above or when the manufacturer's installation instructions are not available, such aspects shall be subject to and shall comply with Title 24 Code of Federal Regulations, Part 3285 – Model Manufactured Home Installation Standards. To the extent that the manufacturer's installation instructions and Title 24 Code of Federal Regulations, Part 3285 do not address any aspect enumerated above, such aspects shall be subject to and shall comply with the provisions of this code, which shall include the option of using the IRC for the technical requirements for the installation and set up of the home and the use of Appendix E of the IRC for additions, alterations and repairs to the home. Additionally, all applicable provisions of Chapter 1 of this code, including but not limited to requirements for permits, inspections, certificates of occupancy and requiring compliance, are applicable to the installation and set up of a manufactured home. Where the installation or erection of a manufactured home utilizes components which are to be concealed, the installer shall notify the building official that an inspection is necessary and assure that an inspection is performed and approved prior to concealment of such components, unless the building official has agreed to an alternative method of verification.~~

## Explanation of Changes

The changes are intended to draw clear lines between what is regulated under the MHSR and under the VCC for the set up and installation of manufactured homes. In addition, the reference in the VCC to the new federal installation standards is added to replace the old reference to the NCSBCS/ANSI standard.

## BREAKING NEWS

Breaking News Updated: 10:31 AM

1 killed in officer-involved shooting in Floyd County

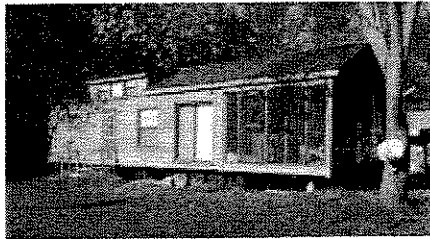
Tuesday, January 13, 2009

## Panel narrowly denies zoning change

The owners of a vacation unit in Botetourt County may have to remove it from their property.

By Courtney Cutright

981-3345



*The Roanoke Times File 2008*

A summer getaway near Oriskany has given Botetourt County officials a puzzler as they try to determine how to classify it.

FINCASTLE -- The Botetourt County Planning Commission on Monday evening narrowly voted to recommend denial of a zoning amendment that could force Polly Anne and Wayne Crouch to move a log cabin-trailer hybrid from their Oriskany property.

Commission members James Laughlin, Steve Kidd and Chris Whitely voted to recommend denying the addition of the definition for a "recreational park trailer" to the county's board of supervisors.

The impetus for denial was because the Crouches' unit does not meet state and federal building standards but instead those of the American National Standards Institute, which Virginia does not recognize.

Later this month, the board will make the final determination on the zoning issue that has puzzled county planning officials for months.

The dwelling, which is neither a federally approved manufactured home nor a state-approved stick-built home, conflicts with the county's zoning code. The Crouches, of Chesterfield, have owned the property for about 30 years and use the site to hunt, fish and camp.

The 3-2 vote kept the commission from moving forward to consider recommending a special-exemption permit for the Crouches.

"It's a good-looking unit. I wish it fell under the classification of a mobile home," Kidd said.

The points of contention for the commission had less to do with the unit's exterior appearance than the fact that county officials said the dwelling was placed there without permission as well as concerns about the precedent that allowing a change would set.

"I think it started off wrongly and it's only been building up to more confusion. This is going to come back to haunt the board of supervisors and the planning commission eventually," Laughlin said.

The planning commission tabled the issue in October and Rob Hagan, the Crouches' attorney, revised the request.

At the October meeting, neighboring property owners supported the Crouches' request and said the unit enhanced the area, Hagan said.

history | hilite | pdf

082334604

**HOUSE BILL NO. 895**

Offered January 9, 2008

Prefiled January 8, 2008

*A BILL to amend and reenact §§ 36-98.3 and 59.1-519 of the Code of Virginia, relating to the Uniform Statewide Building Code; amusement devices; definitions.*

-----  
Patron-- Lohr  
-----Referred to Committee on General Laws  
-----

Be it enacted by the General Assembly of Virginia:

1. That §§ 36-98.3 and 59.1-519 of the Code of Virginia are amended and reenacted as follows:

§ 36-98.3. Amusement devices.

A. The Board shall have the power and duty to promulgate regulations pertaining to the construction, maintenance, operation and inspection of amusement devices.

*B. For purposes of this section:*

"Amusement device" means (i) a device or structure open to the public by which persons are conveyed or moved in an unusual manner for diversion and (ii) passenger tramways. *"Amusement device" shall not include any temporarily installed canopy, tent, or similar structure or inflatable device while such structure or device is in use for a private meeting or party that is limited in attendance to members of the organization sponsoring the meeting or party and invited guests and not otherwise open to the public.*

★"Passenger tramway" means a device used to transport passengers uphill, and suspended in the air by the use of steel cables, chains or belts, or by ropes, and usually supported by trestles or towers with one or more spans.

C. Regulations promulgated hereunder shall include provisions for the following:

1. The issuance of certificates of inspection prior to the operation of an amusement device;
2. The demonstration of financial responsibility of the owner or operator of the amusement device prior to the operation of an amusement device;
3. Maintenance inspections of existing amusement devices;
4. Reporting of accidents resulting in serious injury or death;
5. Immediate investigative inspections following accidents involving an amusement device that result in serious injury or death;

6. Certification of amusement device inspectors;
7. Qualifications of amusement device operators;
8. Notification by amusement device owners or operators of an intent to operate at a location within the Commonwealth; and
9. A timely reconsideration of the decision of the local building department when an amusement device owner or operator is aggrieved by such a decision.

~~B-D.~~ In promulgating regulations, the Board shall have due regard for generally accepted standards as recommended by nationally recognized organizations. Where appropriate, the Board shall establish separate standards for mobile amusement devices and for amusement devices permanently affixed to a site.

~~C-E.~~ To assist the Board in the administration of this section, the Board shall appoint an Amusement Device Technical Advisory Committee, which shall be composed of five members who, by virtue of their education, training or employment, have demonstrated adequate knowledge of amusement devices or the amusement industry. The Board shall determine the terms of the Amusement Device Technical Advisory Committee members. The Amusement Device Technical Advisory Committee shall recommend standards for the construction, maintenance, operation and inspection of amusement devices, including the qualifications of amusement device operators and the certification of inspectors, and otherwise perform advisory functions as the Board may require.

~~D-F.~~ Inspections required by this section shall be performed by persons certified by the Board pursuant to subdivision 6 of § 36-137 as competent to inspect amusement devices. The provisions of § 36-105 notwithstanding, the local governing body shall enforce the regulations promulgated by the Board for existing amusement devices. Nothing in this section shall be construed to prohibit the local governing body from authorizing inspections to be performed by persons who are not employees of the local governing body, provided those inspectors are certified by the Board as provided herein. The Board is authorized to conduct or cause to be conducted any inspection required by this section, provided that the person performing the inspection on behalf of the Board is certified by the Board as provided herein.

~~E-G.~~ To the extent they are not superseded by the provisions of this section and the regulations promulgated hereunder, the provisions of this chapter and the Uniform Statewide Building Code shall apply to amusement devices.

#### § 59.1-519. Definitions.

As used in this chapter:

"Amusement device" means (i) a device or structure open to the public by which persons are conveyed or moved in an unusual manner for diversion and (ii) a device suspended in the air by the use of steel cables, chains, belts, or ropes, and usually supported by trestles or towers with one or more spans, also known as a passenger tramway, used to transport passengers uphill. *"Amusement device" shall not include any temporarily installed canopy, tent, or similar structure or inflatable device while such structure or device is in use for a private meeting or party that is limited in attendance to members of the organization sponsoring the meeting or party and invited guests and not otherwise open to the public.*

**HB 895 Uniform Statewide Building Code; definition of amusement devices.**

another bill?

Matthew J. Lohr | all patrons ... notes | add to my profiles

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*Summary as introduced:*

**Uniform Statewide Building Code; amusement devices; definitions.** Provides that the definition of “amusement device” shall not include any temporarily installed canopy, tent, or similar structure or inflatable device while in use for a private meeting or party limited in attendance to members of the organization sponsoring the event and invited guests.

*Full text:*

01/08/08 House: Prefiled and ordered printed; offered 01/09/08 082334604 (impact statement)

*Status:*

01/08/08 House: Prefiled and ordered printed; offered 01/09/08 082334604

01/08/08 House: Referred to Committee on General Laws

01/17/08 House: Assigned GL sub: Housing

02/12/08 House: Left in General Laws

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**Part I**  
**General Provisions**

**13VAC5-31-10. Purpose.**

**A.** The purpose of this chapter is to establish standards for the regulation, design, construction, maintenance, operation, and inspection of amusement devices.

**B.** The provisions of the USBC, including but not limited to all administrative procedures shall apply in the administration and enforcement of this chapter and to amusement devices to the extent such provisions are not superseded by the provisions of this chapter.

**13VAC5-31-20. Definitions.**

**A.** The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

**“Amusement device”** means (i) a device or structure open to the public by which persons are conveyed or moved in an unusual manner for diversion and (ii) passenger tramways.

**“Bungee cord”** means the elastic rope to which the jumper is attached which lengthens and shortens to produce a bouncing action.

**“Carabineer”** means a shaped metal device with a gate used to connect sections of a bungee cord, jump rigging, equipment, or safety gear.

**“DHCD”** means the Virginia Department of Housing and Community Development.

**“Gravity ride”** means a ride that is installed on an inclined surface, which depends on gravity for its operation to convey a passenger from the top of the incline to the bottom, and which conveys a passenger in or on a carrier tube, bag, bathing suit, or clothes.

**“Ground operator”** means a person who assists the jump master to prepare a jumper for jumping.

**“Harness”** means an assembly to be worn by a bungee jumper to be attached to a bungee cord. It is designed to prevent the wearer from becoming detached from the bungee system.

**“Jump master”** means a person who has responsibility for the bungee jumper and who takes the jumper through the final stages to the actual jump.

**“Jump zone”** means the space bounded by the maximum designed movements of the bungee jumper.

**“Jumper”** means the person who departs from a height attached to a bungee system.

**“Kiddie ride”** means an amusement device where the passenger or patron height is limited to 54 inches or less, the design capacity of passengers or patrons is 12 or less and the assembly time for the device is two hours or less.

**“Landing area”** means the surface area of ground or water directly under the jump zone, the area where the lowering device moves the bungee jumper to be landed away from the jump space and the area covered by the movement of the lowering device.

**“Local building department”** means the agency or agencies of the governing body of any city, county or town in this Commonwealth charged with the enforcement of the USBC.

**“Operating manual”** means the document that contains the procedures and forms for the operation of bungee jumping equipment and activity at a site.

**“Passenger tramway”** means a device used to transport passengers uphill, and suspended in the air by the use of steel cables, chains or belts, or ropes, and usually supported by trestles or towers with one or more spans.

**“Platform”** means the equipment attached to the structure from which the bungee jumper departs.

**“Private inspector”** means a person performing inspections who is independent of the company, individual or organization owning, operating or having any vested interest in an amusement device being inspected.

**“Ultimate tensile strength”** means the greatest amount of load applied to a bungee cord prior to failure.

**“USBC”** means the Virginia Uniform Statewide Building Code (13VAC5-63).

**B.** Words and terms used in this chapter which are defined in the USBC shall have the meaning ascribed to them in that regulation unless the context clearly indicates otherwise.

**C.** Words and terms used in this chapter which are defined in the standards incorporated by reference in this chapter shall have the meaning ascribed to them in those standards unless the context clearly indicates otherwise.

#### **13VAC5-31-30. Exemptions.**

The following equipment or devices shall not be considered amusement devices subject to this chapter:

1. Non-mechanized playground or recreational equipment such as swing sets, sliding boards, climbing bars, jungle gyms, skateboard ramps and similar equipment where no admission fee is charged for its use or for admittance to areas where the equipment is located;
2. Coin-operated rides designed to accommodate three or less passengers; and
3. Water slides or similar equipment used in community association, community club or community organization swimming pools.

#### **13VAC5-31-40. Incorporated standards.**

**A.** The following standards are hereby incorporated by reference for use as part of this chapter:

1. American National Standards Institute (ANSI) Standard No. B77.1-2006 for the regulation of passenger tramways; and
2. American Society for Testing and Materials (ASTM) Standard Nos. F698-94 (Reapproved 2000), F747-06, F770-06a, F846-92 (Reapproved 2003), F853-05 F893-05a; F1159-03a, F1193-06, F1305-94 (Reapproved 2002), F1950-99, F1957-99 (Reapproved 2004), F2007-06, F2137-04, ~~F2291-06a~~ F2291-08 , F2374-07a, F2376-06 and F2460-06 for the regulation of amusement devices.

The standards referenced above may be procured from:

ANSI  
25 W 43rd Street  
New York, NY 10036

ASTM  
100 Barr Harbor Dr.  
West Conshohocken, PA 19428-2959

**B.** The provisions of this chapter govern where they are in conflict with any provisions of the standards incorporated by reference in this chapter.

**C.** The following requirements supplement the provisions of the ASTM standards incorporated by reference in this chapter:

1. The operator of an amusement device shall be at least 16 years of age, except when the person is under the supervision of a parent or guardian and engaged in activities determined not to be hazardous by the Commissioner of the Virginia Department of Labor and Industry;

2. The amusement device shall be attended by an operator at all times during operation except that (i) one operator is permitted to operate two or more amusement devices provided they are within the sight of the operator and operated by a common control panel or station and (ii) one operator is permitted to operate two kiddie rides with separate controls provided the distance between controls is no more than 35 feet and the controls are equipped with a positive pressure switch; and
3. The operator of an amusement device shall not be (i) under the influence of any drugs which may affect the operator's judgment or ability to assure the safety of the public or (ii) under the influence of alcohol.

**D.** Where an amusement device was manufactured under previous editions of the standards incorporated by reference in this chapter, the previous editions shall apply to the extent that they are different from the current standards.

**13VAC5-31-50. Certification of amusement device inspectors.**

**A.** Any person, including local building department personnel, inspecting an amusement device relative to a certificate of inspection shall possess prior to conducting an inspection a valid certificate of competence certification as an amusement device inspector ~~from the Virginia Board of Housing and Community Development in accordance with the Virginia Certification Standards (13VAC5-21) .~~

**B.** Local building department personnel enforcing this chapter and private inspectors shall attend ~~16 hours every two years of continuing education and periodic training courses approved or required as designated by DHCD. Additional continuing education hours shall not be required if more than one certificate is held. In addition to the periodic training courses required above, local building department personnel and private inspectors shall attend 16 hours every two years of continuing education training approved by DHCD. If such personnel or private inspectors have more than one DHCD certificate, the 16 hours shall satisfy the continuing education requirement for all certificates.~~

**13VAC5-31-60. Appeals.**

Appeals from the local building department concerning the application of this chapter shall be made to the local board of building code appeals established by the USBC. Application for appeal shall be filed with the local building department within 14 calendar days after receipt of the decision of the local building department. The board of appeals shall hear the appeal within seven calendar days after the application for appeal is filed. After final determination by the board, any person who was a party to the appeal may appeal to the Technical Review Board within 14 calendar days of receipt of the decision to be appealed. Such appeal shall be in accordance with the procedures established in the USBC, under the authority granted by § 36-98.3 of the Code of Virginia where the provisions of Chapter 6 of Title 36 of the Code of Virginia and the USBC apply to amusement devices.

**Note:** Because of the short time frames normally associated with amusement device operations, DHCD staff will be available to assist in finding a timely resolution to disagreements between owners or operators and the local building department upon request by either party.

**Part II**  
**Enforcement Permits and Certificates of Inspection**

**13VAC5-31-75. Local building department.**

**A.** In accordance with §§ 36-98.3 and 36-105 of the Code of Virginia, the local building department shall be responsible for the enforcement of this chapter and may charge fees for such enforcement activity. The total amount charged for any one permit to operate an amusement device or devices or the renewal of such permit shall not exceed the following, except that when a private inspector is used, the fees shall be reduced by 50%:

1. \$25 for each kiddie ride covered by the permit;
2. \$35 for each circular ride or flat-ride less than 20 feet in height covered by the permit;
3. \$55 for each spectacular ride covered by the permit which permit which cannot be inspected as a circular ride or flat-ride in subdivision 2 of this subsection due to complexity or height; and

4. \$150 for each coaster covered by the permit which exceeds 30 feet in height.

The permit to operate an amusement device or devices shall include any generators associated with the amusement device or devices except that the local building department may charge an additional fee for the inspection of such generators, not to exceed \$50 per generator.

B. Notwithstanding the provisions of subsection A of this section, when an amusement device is constructed in whole or in part at a site for permanent operation at that site and is not intended to be disassembled and moved to another site, then the local building department may utilize permit and inspection fees established pursuant to the USBC to defray the cost of enforcement. This authorization does not apply to an amusement device that is only being reassembled, undergoing a major modification at a site or being moved to a site for operation.

C. A permit application shall be made to the local building department at least five days before the date in which the applicant intends to operate an amusement device. The application shall include the name of the owner, operator or other person assuming responsibility for the device or devices, a general description of the device or devices including any serial or identification numbers available, the location of the property on which the device or devices will be operated and the length of time of operation. The permit application shall indicate whether a private inspector will be utilized. If a private inspector is not utilized, the applicant shall give reasonable notice when an inspection is sought and may stipulate the day such inspection is requested provided it is during the normal operating hours of the local building department. In addition to the information required on the permit application, the applicant shall provide proof of liability insurance of an amount not less than ~~\$100,000~~ \$1,000,000 per person and \$1,000,000 in the aggregate for each amusement device insuring the owner or operator against liability for injury suffered by persons riding the amusement device or by persons in, on, under or near the amusement device; occurrence or proof of equivalent financial responsibility. The local building department shall be notified of any change in the liability insurance or financial responsibility during the period covered by the permit.

D. Notwithstanding the provisions of subsection C of this section, a permit application is not required for a kiddie ride ~~in which the passenger height is 54 inches or less, the design capacity is for 12 passengers or less and which can be assembled in two hours or less~~, provided the kiddie ride has an unexpired certificate of inspection issued by any local building department in this Commonwealth. In such cases, the local building department shall be notified prior to the operation of the kiddie ride and the information required on a permit application as listed in subsection C of this section shall be provided to the local building department.

E. Local building department personnel shall examine the permit application within five days and issue the permit if all requirements are met. A certificate of inspection for each amusement device shall be issued when the device has been found to comply with this chapter by a private inspector or by an inspector from the local building department. It shall be the responsibility of the local building department to verify that the private inspector possesses a valid certificate of competence as an amusement device inspector from the Virginia Board of Housing and Community Development. In addition, local building department personnel shall be responsible for assuring that the certificate of inspection is posted or affixed on or in the vicinity of the device in a location visible to the public. Permits shall indicate the length of time the device or devices will be operated at the site, clearly identify the device or devices to which it applies and the date of expiration of the permit. Permits and certificates of inspection shall not be valid for longer than one year.

F. In addition to obtaining a certificate of inspection in conjunction with a permit application, a new certificate of inspection shall also be obtained prior to the operation of an amusement device following a major modification, prior to each seasonal operation of a device and prior to resuming the operation of a device following an order from a local building department to cease operation. Further, a new certificate of inspection shall be obtained at least once during the operating season for amusement devices permanently affixed to a site. Fees in accordance with subsection A of this section may be charged for any new certificates of inspection required pursuant to this subsection. This requirement The requirements of this subsection shall not apply to kiddie rides meeting the conditions outlined in subsection D of this section.

G. For amusement devices manufactured prior to 1978, the owner or operator shall have the information required by §§ 2.1 through 2.6 of ASTM F698 available at the time of inspection. In addition, the operator of any amusement device shall be responsible for obtaining all manufacturer's notifications, service bulletins and safety alerts issued pursuant to ASTM F853 and the operator shall comply with all recommendations and requirements set out in those documents. A copy of all such documents shall be made available during an inspection.

H. In the enforcement of this chapter, local building department personnel shall have authority to conduct inspections at any time an amusement device would normally be open for operation or at any other time if permission is granted by the

owner or operator, to issue an order to temporarily cease operation of an amusement device upon the determination that the device may be unsafe or may otherwise endanger the public and to accept and approve or deny requests for modifications of the rules of this chapter in accordance with the modification provisions of the USBC.

**13VAC5-31-85. Accidents involving serious injury or death.**

A. If an accident involving the serious injury or death of a patron occurs, the operation of an amusement device shall cease and the local building department shall be notified as soon as practicable, but in no case later than during the next working day. The operation of the device shall not resume until inspected by a private inspector or an inspector from the local building department, except where the owner or operator determines the cause was not related to malfunction or improper operation of the amusement device.

B. The owner or operator shall conduct an investigation of the accident including, at a minimum, an examination of the accident scene and interviews of any witnesses or persons involved in the accident. An accident investigation report shall be compiled which, at a minimum, shall contain a summary of the investigation and a description of the device involved, including its serial number and date of manufacture, if available. The report shall be submitted to the local building department within 24 hours of the accident except that if the local building department is closed during that period, then the report shall be submitted with four hours of the reopening of the department.

C. Local building department personnel are authorized to investigate the accident and to issue an order to cease operation when warranted and to specify the conditions under which the device may resume operation. The amusement device shall be inspected prior to resuming operation either by an inspector from the local building department or by a private inspector and found to comply with this chapter.

D. The local building department shall file a report annually with DHCD listing any accidents involving the serious injury or death of a patron for amusement devices which were operating within their jurisdiction.

**Part III  
Gravity Rides**

**13VAC5-31-180. General requirements.**

- A. The provisions of this part are specific to gravity rides and are in addition to other applicable provisions of this chapter.
- B. A ride using carriers shall be designed and constructed to retain the passengers in or on a carrier during the operation of the ride and retain the carrier on or within the track, slide, or chute system during the operation of the ride.
- C. A ride that conveys passengers not in or on a carrier shall be designed and constructed to retain the passengers within the chute or slide during the ride.
- D. At each loading or unloading area, a hard surface which is other than earth and which is reasonably level shall be provided. The surface shall be large enough to accommodate the intended quantity of passengers.
- E. Where loading or unloading platforms are elevated more than 30 inches from the adjacent areas, guard rails conforming to the USBC shall be provided.
- F. Passengers shall not have to step up or down more than 12 inches from the loading or unloading surface to enter or exit the ride.
- G. The frequency of departure of carriers or riders from the loading areas shall be controlled by a ride operator. The minimum distance between departures shall be determined by the designer of the specific ride.
- H. When a passenger has control of the speed or course of the carrier, the passenger shall have a clear sight distance along the course of the ride long enough to allow the passenger to avoid a collision with another person or carrier.
- I. The unloading area of the ride shall be designed and constructed to bring riders and carriers to a safe stop without any action by the rider.

**J.** There shall be attendants at the loading and unloading area when the ride is in use. However, where the physical structure of the ride is such that it is not capable of accommodating an attendant at both the loading and unloading area and the entire ride is visible and under the supervision of a single attendant, attendants at both the loading and unloading areas shall not be required.

**K.** If the entire course of the ride is not visible to the operator, additional persons with communications equipment shall be provided or approved visual surveillance equipment shall be installed along the course of the ride which is not visible to the operator.

**L.** Any moving or hot parts that may be injurious to the ride operator or the public shall be effectively guarded to prevent contact.

**M.** Fencing or adequate clearance shall be provided that will prevent the riders from contact with persons or nearby objects.

#### **Part IV Concession Go-karts**

##### **13VAC5-31-190. General Requirements.**

In addition to other applicable requirements of this chapter, concession go-karts shall be operated, maintained and inspected in accordance with ASTM F2007.

#### **Part V Inflatable Amusement Devices**

##### **13VAC5-31-200. General requirements.**

In addition to other applicable requirements of this chapter, inflatable amusement devices shall be operated, maintained and inspected in accordance with ASTM F2374.

Notwithstanding any requirements of this chapter to the contrary, a permit to operate an inflatable amusement device that is less than 150 square feet and in which the height of the patron containment area is less than 10 feet need not be obtained if the device has an unexpired certificate of inspection issued by a local building department in this Commonwealth, regardless of whether the device has been disassembled or moved to a new site.

#### **Part VI Artificial Climbing Walls**

##### **13VAC5-31-210. General requirements.**

**A.** In addition to other applicable requirements of this chapter, artificial climbing walls shall be operated, maintained and inspected in accordance with ASTM F1159.

Notwithstanding any requirements of this chapter to the contrary, an artificial climbing wall may be moved, setup and operated without obtaining a permit provided the wall has a valid certificate of inspection issued by a local building department within the prior 90 days and the expiration date of the wire ropes used with the device does not expire within that 90-day period. (Question has been raised whether the exception should be for six months.)

**B.** (Reserved for standards, protocols or operational information for permanent climbing walls.)

#### **Part VII Bumper Boats**

##### **13VAC5-31-215. General requirements.**

In addition to other applicable requirements of this chapter, bumper boats shall be operated, maintained and inspected in accordance with ASTM F2460.

Part VIII  
Zip Lines

(Reserved for regulations specific to zip lines.)

Part IX  
Mall Trains

(Reserved for regulations specific to mall trains.)

Part VIII X  
**Bungee Jumping**

**13VAC5-31-220. General requirements.**

- A. The provisions of this part are specific to bungee jumping and are in addition to other applicable provisions of this chapter.
- B. Bungee jumping operations which are open to the public shall be permitted from structures designed for use as part of the bungee jumping operation. Bungee jumping from other types of structures, cranes or derricks is not permitted for public participation.
- C. Bungee jumping activities which involve double jumping, sandbagging, catapulting or stunt jumping shall not be permitted to be open for public participation.

**13VAC5-31-230. Bungee cords.**

- A. Bungee cords shall be tested by an approved testing agency or by an engineer licensed in Virginia. The following criteria shall be met:
  - 1. Each lot of bungee cords shall have a minimum of 10%, but not less than one of the cords tested to determine the lowest ultimate tensile strength of the cords tested. A load versus elongation curve based on the test result shall be provided with each lot of bungee cords; and
  - 2. The manufacturer shall specify the maximum number of jumps for which each cord or cord type is designed and the criteria for use of the cord.
- B. Bungee cords shall be retired when the cords (i) exhibit deterioration or damage; (ii) do not react according to specifications; or (iii) have reached the maximum usage expressed in number of jumps as specified by the manufacturer. Bungee cords retired from use shall be destroyed immediately by cutting the cord into five-foot lengths.

**13VAC5-31-240. Jump hardware.**

Jump harnesses shall be either full body-designed, which includes a waist harness worn in conjunction with a chest harness, or ankle-designed with a link to a waist harness. All jump harnesses, carabineers, cables and other hardware shall be designed and manufactured for the purpose or designed or analyzed by an engineer licensed in Virginia and shall be used and maintained in accordance with the manufacturer's or engineer's instructions.

**13VAC5-31-250. Structure requirements.**

Structures constructed on site for bungee jumping activities shall be designed by an engineer licensed in Virginia. Structures manufactured for bungee jumping activities shall be analyzed by an engineer licensed in Virginia and assembled and supported in accordance with the manufacturer's instructions.

**13VAC5-31-260. Operational and site requirements.**

**A.** Operators shall follow the criteria provided by the manufacturer for the use of bungee cords. A record of the number of jumps with each cord shall be maintained. All cords shall be inspected daily for wear, slippage, or other abnormalities unless the manufacturer specifies more frequent inspections.

**B.** The jump master or site manager shall be responsible for determining the appropriate use of all bungee cords in relation to the weight of the jumper and height of the platform. Bungee cords shall be attached to the structure at all times when in the connection area.

**C.** All harnesses shall be inspected prior to harnessing a jumper and shall be removed from service when they exhibit signs of excessive wear or damage. All carabiners shall be inspected daily and shall be removed from service when they exhibit signs of excessive wear or damage or fail to function as designed. The anchors shall be inspected daily and shall be replaced if showing signs of excessive wear.

**D.** A secondary retrieval system shall be provided in all operations. A locking mechanism on the line shall be used to stop and hold the jumper in place after being pulled back to the jump platform in a retrieval system. A dead man's switch or locking mechanism that will stop the lowering action shall be used in a friction lowering system.

**E.** The jump zone, preparation area and landing/recovery area shall be identified and maintained during bungee jumping activities. The landing/recovery area shall be accessible to emergency vehicles. Communication shall be maintained between all personnel involved with the jump.

**F.** An air bag, a minimum of 10 feet by 10 feet, shall be used. The air bag shall be rated for the maximum free fall height possible from the platform during operation. The air bag shall be located immediately below the jump space. The landing area shall be free of spectators and debris at all times and shall be free of any equipment or personnel when a jumper is being prepared on the jump platform and until the bungee cord is at its static extended state. A place to sit and recover shall be provided adjacent to, but outside, the landing area where the jumper shall be allowed to recover.

**G.** Where the jump space or landing area, or both, is over sea, lake, river, or harbor waters, the following shall apply:

1. The landing water area shall be at least nine feet deep and a minimum of 10 feet by 10 feet or have a minimum of 15 feet in diameter if circular;
2. The jump space and landing area shall be free of other vessels, floating and submerged objects and buoys. A sign of approved size which reads "Bungee Jumping! Keep Clear" shall be fixed to buoys on four sides of the landing area;
3. The landing vessel shall be readily available for the duration of the landing procedures;
4. The landing vessel shall have a landing pad size of at least five feet by five feet within and lower than the sides of the vessel;
5. A landing vessel shall be available that can be maneuvered in the range of water conditions expected and will enable staff to pick up a jumper; and
6. One person may operate the landing vessel where the vessel is positioned without the use of power. A separate person shall operate the vessel where power is required to maneuver into or hold the landing position.

**H.** Where the landing area is part of a swimming pool or the landing area is specifically constructed for bungee jumping, the following shall apply:

1. Rescue equipment shall be available, such as a life ring or safety pole;
2. The jump space and landing area shall be fenced to exclude the public; and
3. Only the operators of the bungee jump and jumper shall be within the jump zone and landing areas.

I. Storage shall be provided to protect equipment from physical, chemical and ultra-violet radiation damage. The storage shall be provided for any current, replacement and emergency equipment and organized for ready access and shall be secure against unauthorized entry.

**13VAC5-31-270. Management and personnel responsibilities.**

A. All bungee jumping activities shall have a minimum of one site manager, one jump master and one ground operator to be present at all times during operation of the bungee jump.

B. The site manager is responsible for the following:

1. Controlling the entire operation;
2. Site equipment and procedures;
3. Determining whether it is safe to jump;
4. Selection of, and any training of personnel;
5. Emergency procedures; and
6. Maintaining records.

C. A jump master shall be located at each jump platform and shall have thorough knowledge of, and is responsible for, the following:

1. Overseeing the processing of jumpers, selection of the bungee cord, adjustment of the rigging, final check of jumper's preparation, and countdown for and observation of the jump;
2. Verifying that the cord is attached to the structure at all times when the jumper is in the jump area;
3. Rescue and emergency procedures; and
4. Ensuring that the number of jumps undertaken in a given period of time will allow all personnel to safely carry out their responsibilities.

D. The ground operator shall have knowledge of all equipment used and of jump procedures and shall have the following responsibilities:

1. Ensuring that the jumper is qualified to jump;
2. Assisting the jump master to prepare the jumper and attach the jumper to the harness and rigging;
3. Assisting the jumper to the recovery area; and
4. Maintaining a clear view of the landing area.

E. Each site shall have an operating manual which shall include the following:

1. Site plan, job descriptions (including procedures), inspections and maintenance requirements of equipment including rigging, hardware, bungee cords, harnesses, and lifelines; and
2. An emergency rescue plan.

F. The daily operating procedures shall be conducted in accordance with ASTM F770.

G. The qualification and preparation of jumpers shall include obtaining any pertinent medical information, jumper weight and a briefing of jumping procedures and safety instructions.

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Tuesday, January 6, 2009 |

Charlottesville, VA 32° Feels Like: 32° Overcast [View Warnings/Advisories](#)

## Albemarle station debuts E85 alternative fuel blend



The Daily Progress/Megan Lovett

Lt. Gov. Bill Bolling pumps the first tank from the E-85 ethanol/gasoline mix pump at the Shell station on the corner of Greenbrier Drive and U.S. 29. The station is the first in Central Virginia to offer the clean-burning fuel.

Text size: [small](#) | [medium](#) | [large](#)

By [BRIAN MCNEILL](#)

Published: January 6, 2009

An Albemarle County gas station is the first in Central Virginia to offer E85, an alternative fuel blend of 85 percent ethanol and 15 percent gasoline.

The Stop In Food Store, a Shell station at 1220 Seminole Trail, marked the debut of its E85 fuel pump at a ceremony Monday with state officials and local businesspeople.

"This is a positive step toward energy independence," Lt. Gov. Bill Bolling said as cars and trucks zoomed by on U.S. 29.

As of December, E85 was available at 1,900 gas stations out of an estimated 170,000 conventional gas stations across the country. Advocates say E85 is a renewable energy source that cuts down on oil

consumption and releases fewer toxic emissions into the air. Critics, however, say that E85 is not nearly as environmentally friendly as advertised.

Albemarle County's Stop In Food Store, operated by Petroleum Marketers Inc., is the third service station in Virginia to offer E85, but is the most easily accessible to the general public. A Citgo station at the Pentagon sells the fuel to civilians, but does not allow the public to purchase anything else at its store. An Army & Air Force Exchange Service station in Richmond also sells E85 to the public, but only if the customer has access to a secure military facility.

There are four additional E85 stations open solely to government agencies in Hampton, Portsmouth, Richmond and Yorktown, according to the U.S. Department of Energy.

Only vehicles capable of running on "flexible fuel" can be filled with E85. The Charlottesville area has Virginia's second highest concentration of these vehicles, trailing behind only Northern Virginia.

Roy Foutz of Petroleum Marketers Inc., which operates 85 stations in Virginia, said the Albemarle County store will show if the market is ready for E85. If it proves popular with Charlottesville-area motorists, he said, the alternative fuel could be added at more service stations.

There are roughly 6 million flex fuel vehicles on the road in the United States. Many current models manufactured by domestic and foreign automakers can have the capability. Since 2007, such vehicles frequently have a yellow gas cap or a flexible fuel logo attached to the rear. At the event Monday, officials filled up a Tahoe and an Impala with E85.

"What a great day this is," said Sandy Fewell, chief operating officer of Jim Price Chevrolet. "We've had to tell people that there wasn't anywhere to go [to purchase E85 fuel]. We had to be hush-hush about the E85. That ends today."

While Monday's event put a positive spin on E85, there is some disagreement about whether the alternative fuel is better for the environment than conventional gas.

While E85 does burn cleaner than gasoline, production of corn-based ethanol requires more energy than it produces, according to a 2003 study published in the Natural Resources Research journal. A 2005 study in the journal BioScience found that the total ecological footprint of a vehicle in the United States running on E85 was actually greater than a vehicle running on gasoline.

"E85 is probably not that great of an alternative, environmentally speaking," said Lisa Colosi, a University of Virginia professor of civil and environmental engineering. Colosi and other UVA researchers have been studying the possibility that algae might produce future biofuels.

Colosi added, however, that E85 could be an important step toward promoting renewable energy. If E85 is successful, she said, it might encourage private industry to further invest in environmentally friendly energy projects and research, she said.

Burl Haigwood, executive director of Flex Fuel Vehicle Club of America, said the research questioning E85 is "not reputable" and said Monday's ribbon cutting of the new E85 pump in Albemarle County marks a "significant change in history."

E85, he said, is among the best bets for curtailing America's dependence on foreign oil. Yet for it to succeed, he added, customers must start buying flex fuel vehicles at a greater rate and must fill up their

tanks with the alternative fuel.

“This is something, truly, that can make a difference in the amount of oil that we import,” he said.

The Stop In Food Store on U.S. 29 benefited from a grant provided by the nonprofit Virginia Clean Cities, which receives funds from the U.S. Department of Energy.

Virginia Clean Cities offers gas stations in Virginia, Washington and Maryland up to \$12,000 to defray the costs of adding E85 pumps. Al Christopher, executive director of Virginia Clean Cities, said the grant was only a small part of a sizable investment by Petroleum Marketers Inc. to start offering E85 to the Charlottesville area.



the standard in safety

Underwriters  
Laboratories

August 7, 2008

Dresser Wayne Inc.  
Attn: Phil Katselnik  
3815C Jarrett Way  
Austin, TX 78728, USA

Subject: Response in relation to current evaluation status

Dear Mr. Katselnik,

As we discussed, Dresser Wayne would like to be able to publicly release some details in relation to the evaluation currently being performed here at Underwriters Laboratories (UL). The current evaluation covers the Dresser Wayne dispensing device product intended for use with gasoline/ethanol blends with a nominal ethanol content of 85 percent (E85). For the record, a complete dispensing device is defined as all required and appropriate components, from the dispensing device inlet to the nozzle, which are interconnected for the purpose of dispensing fuel from a storage tank. The Dresser Wayne product currently being evaluated consists of what is defined as a "hydraulic tree". The Dresser Wayne "hydraulic tree" consists of all components from the dispensing device inlet to the dispensing device outlet (the outlet is the component that connects to the hose). It does not include the "hanging hardware" components (hoses, breakaway couplings, swivel connectors, nozzles, etc.). In this case, these "hanging hardware" components are manufactured by other organizations outside of Dresser Wayne, were not supplied with the "hydraulic tree", and therefore are not part of the current evaluation.

As you know, in order to receive authorization to use the UL Mark on any complete dispensing device intended to dispense E85, the entire product from the dispensing device inlet to the nozzle must be shown to comply with the appropriate requirements as outlined in UL Subject 87A. In this case, Dresser Wayne only manufactures the "hydraulic tree" as described above. Therefore, before authorization can be granted to Dresser Wayne to use the UL Mark on a complete dispensing device intended to dispense E85, authorization must be granted to the manufacturers of "hanging hardware" components intended for use with E85, which in turn can be used with the "hydraulic tree" to produce a complete dispensing device intended to dispense E85.

At this time, the following facts can be presented to all interested parties in order to explain the current situation in relation to Dresser Wayne's complete dispensing device product. As part of this explanation, Dresser Wayne can state that the "hydraulic tree" has completed the material compatibility testing and performance testing required in the Outline of Investigation, UL Subject 87A. Please note, as of the date of this letter, there are still some tests remaining on label materials, so you cannot state that all testing has been completed.

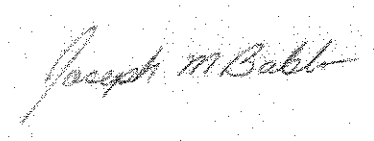
It can be stated that Dresser Wayne's "hydraulic tree" is awaiting the completion of evaluations for "hanging hardware" components prior to obtaining authorization to apply the UL Mark to the complete dispensing device.

Underwriters Laboratories Inc.  
333 Pilington Road, Northbrook, IL 60062-2696 USA  
T: 847.272.8800 / F: 847.272.5129 / W: ul.com

You cannot state that you were found to comply with UL Subject 87A as all parts of this standard cannot be addressed until the “hanging hardware” components are Listed. Also, you cannot state that your complete dispensing device product, or the “hydraulic tree”, is Listed or Certified by UL at this time.

We hope that this provides some useful information for you to relay your messaging. If you have any questions, please let us know.

Sincerely,

A handwritten signature in cursive script, reading "Joseph M. Bablo". The signature is written in dark ink on a light background.

Joe Bablo  
Primary Designated Engineer  
Automotive Equipment and  
Associate Technologies  
Dept: 3615DSNK  
T: 847-664-3995  
E: joseph.bablo@us.ul.com

## Rodgers, Emory

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**From:** Walz, Stephen [Stephen.Walz@governor.virginia.gov]  
**Sent:** Friday, October 17, 2008 3:41 PM  
**To:** Rodgers, Emory  
**Subject:** FW: Responding to Ethanol Incidents training - US Fire Administration

Emory - Here is the info on ethanol fire fighting that I mentioned. - Steve

**Ethanol Incidents:** The US Fire Administration (USFA) announces the availability of a CD-ROM training package for Responding to Ethanol Incidents. A cooperative effort between USFA and the International Association of Fire Chiefs, with assistance from the Ethanol Emergency Response Coalition, this training addresses the needs of emergency responders when faced with incidents involving ethanol and ethanol-blended fuels.

Link to program: <http://www.usfa.dhs.gov/fireservice/subjects/hazmat/ethanol.shtml>

Date: 11-14-08

To: Local Building and Fire Officials

From: Emory Rodgers, Deputy Director, Virginia Department of Housing and Community Development

Subject: Modification Recommendation for E-85 Dispensers, related dispenser equipment and tank Installations for new or existing installations.

The utilization of E-85 fuel throughout Virginia is fast approaching with the construction of an ethanol plant in Hopewell, Virginia this year with a completion date in 2010 that will be capable of producing 55 million gallons of ethanol for distribution inside the state. To our knowledge the state and federal government have E-85 dispensers here in Virginia. However, a local oil company is attempting or has plans to install E-85 dispensers in Henrico, Southampton and Albemarle Counties. Ethanol fuel is supported by a diverse sector of public officials and private entities to reduce foreign dependency on foreign oil; to aid farmers; to use sustainable resources; and, to have available less expensive fuel alternatives to operate our vehicles.

Despite, there not being any listed E-85 dispensers and related equipment at this time, the UL87A listing standards is available for the manufacturers of E-85 dispensers and related equipment to apply and have their equipment tested and labeled by UL or other approved listing agencies. The International Fire Code Section 2206.7.1 does require listings for all fuel dispensing systems. The Uniform Statewide Building Code (USBC) would allow the building official to approve a modification even without a listing where the manufacturer certifies and provides data that the E-85 dispenser and related equipment and tanks have been manufactured to use ethanol greater than 10% and where there is evidence from around the country of no leakage or fire safety problems. In fact the states of Ohio, West Virginia, Michigan and New York have issued modifications. Information from UL and the local oil company seems to suggest that listings could be approved rather expeditiously upon the filing of an application and delivery to UL of the E-85 dispensers and related equipment. With all of these ongoing efforts and the growing support for E-85 fuel, we three state agencies are recommending that local building and fire officials give all due consideration to the issuance of a modification for the installation of new E-85 dispensers and related equipment and tanks or for the alterations of existing dispensers and related equipment and tanks based on the following criteria:

**USBC Sections 106.3 and 106.3.1 a Modification to the IFC Section 2206.7.1 listing requirements for the installation/alterations of dispensers using E-85 fuel and ongoing SFPC maintenance inspections.**

**1. The modification is valid until the testing and listing process is completed and listing granted or for two years whichever is less. If the dispenser fails the test and**

is not listed the modification expires and must be re-evaluated and reissued by the building official.

2. The manufacturer of the dispenser and related equipment and tanks shall provide a certification from their registered design engineer or an officer that the E85 dispenser and related dispensing equipment have been constructed in accordance with the UL87A or other approved standards. For existing dispensers, related equipment and tanks certification from a registered design professional that dispensers, equipment, piping and tanks are compatible and capable to safely operate using E85 fuel or E-Blended fuel that is greater than 10% shall be submitted. The E-85 fueling systems and all components shall also comply with NFPA 30A and the applicable sections of the International Fire Code Sections 2203 through 2206.

3. The manufacturer shall have initiated the process for listing approval and provide documentation that provides the testing laboratory contracted to perform the test and listing, test standard that is being used and timeframe of the test program. (option) or will have done so within 6 months of the modification approval date.

4. The E-85 installation shall be visually inspected every 6 months by the local fire official or self-certified by the manufacturer or a 3<sup>rd</sup> party inspector approved by the fire official until the testing and listing is completed and the listing is granted. This is in addition to requirements in the IFC Section 2206.2.1.1. Certifications shall be filed with the fire official within 30 days of the inspection. Any detected leakage or failure to file in the prescribed time can be grounds for discontinuance on the operation of the E-85 dispenser and related dispensing equipment and tanks.

5. The manufacturer shall notify within 30 days approval of their listing to the building and fire officials. Each existing E-85 dispenser and related dispensing equipment will then be labeled within 45 days upon notification and approval of the listing, unless otherwise approved by the building official. Failure to comply will be the immediate discontinuance of the fueling operation for any and all existing E-85 dispensers and related dispensing equipment and tanks covered by this modification.

The local building official has to give consideration to a modification request and data submitted. A building permit applicant can appeal the decision of the building official to deny a request for a modification.

The Building Fire Regulation Division feels that the above recommendations for a modification set forth reasonable criteria that ensure safe operation of the E85 dispensers and related dispensing equipment and tanks. The local building official can certainly add or delete any of the criteria being recommended. The local fire official is also included as part of the modification process in that the modification requires the fire official to

conduct periodic inspections to detect and prevent leakage or other fire safety problems. Thus, the building and fire official should both approve the modification.

Most importantly, the recommended modification has a listing sunset provision so that existing E-85 dispensers and related dispensing equipment and tanks approved by modification didn't obtain a listing, then the retailer would have to discontinue E-85 fueling operations.

## Rodgers, Emory

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**From:** Rodgers, Emory  
**Sent:** Wednesday, January 07, 2009 11:38 AM  
**To:** 'Jay Schlothauer'  
**Subject:** RE: Charlottesville Daily Progress | Albemarle station debuts E85 alternative fuel blend

Jay: Good reasoning and logical process to have used in this case. Did you ask that when UL and the industry finally get a listed assembly from tank, hoses, connections and dispensers that they seek their existing installation vendors to have that pump be listed? Hope you can be at the January 23rd VBCOA BOD meeting, but if not I will communicate your approval and share with them the two approval options of 112 and the modification process. Was your fire official on board and do they have any additional inspections planned? Thanks.

-----Original Message-----

From: Jay Schlothauer [mailto:JSCHLOTH@albemarle.org]  
Sent: Wednesday, January 07, 2009 11:07 AM  
To: Rodgers, Emory  
Subject: RE: Charlottesville Daily Progress | Albemarle station debuts E85 alternative fuel blend

Emory,

Regarding the requirements of Section 406.5 of the 2006 Virginia Construction Code and Section 2206.7.1 of the 2006 Virginia Statewide Fire Prevention Code, I did not take the modification route. Instead, I followed the guidance provided in Sections 112.2 and 112.3 of the USBC.

The applicant provided good back-up documentation for the dispenser and piping. I had to require a separate letter from the steel tank manufacturer's engineering department regarding the tank's suitability for E-85 and bio-diesel (it is a two-compartment tank). The literature on the dispenser and piping acknowledged the lack of a generally recognized testing standard; that's why I turned to Sections 112.2 and 112.3.

I could have issued a modification allowing the use of unlisted equipment, but, in considering my options, settled on the course of action described above. I'm sure that we have a good installation, and am glad that Albemarle County can be on the cutting edge of this emerging technology.

Jay Schlothauer  
Director of Inspections / Building Official Albemarle County Department of Community Development  
401 McIntire Road  
Charlottesville, VA 22902  
telephone: (434) 296-5832, ext. 3228  
fax: (434) 972-4126

-----Original Message-----

From: Rodgers, Emory [mailto:Emory.Rodgers@dhcd.virginia.gov]  
Sent: Wednesday, January 07, 2009 10:09 AM  
To: Jay Schlothauer  
Subject: FW: Charlottesville Daily Progress | Albemarle station debuts E85 alternative fuel blend

Jay: What was the outcome in the permitting process? Did you and the fire marshal use the modification draft that we discussed at our E-85 meeting? If so can you share with us as a model for other localities? Thanks.

-----Original Message-----

From: sheltons5 [mailto:sheltons5@comcast.net]  
Sent: Tuesday, January 06, 2009 8:45 AM

**Project 1376 - none**

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
Statewide Fire Prevention Code, Law Changes**

**13VAC5-51-81. Section 107.0. Permits.**

A. 107.1. Prior notification: The fire official may require notification prior to (i) activities involving the handling, storage or use of substances, materials or devices regulated by the SFPC; (ii) conducting processes which produce conditions hazardous to life or property; or (iii) establishing a place of assembly.

B. 107.2. Permits required: Permits may be required by the fire official as permitted under the SFPC in accordance with Table 107.2, except that the fire official shall require permits for the manufacturing, storage, handling, use, and sale of explosives. An application for a permit to manufacture, store, handle, use, or sell explosives shall only be made by an individual certified as a blaster in accordance with Section 3301.4, or by a person who has been issued a background clearance card in accordance with Section 3301.2.3.1.1.

Exception: Such permits shall not be required for the storage of explosives or blasting agents by the Virginia Department of State Police provided notification to the fire official is made annually by the Chief Arson Investigator listing all storage locations.

C. Add Table 107.2 as follows:

5. \$300 per day for fireworks, pyrotechnics or proximate audience displays conducted in any state-owned building and \$150 per day for each subsequent day.
6. \$200 per day for fireworks, pyrotechnics or proximate audience displays conducted out-of-doors on any state-owned property and \$150 per day for each subsequent day.
7. \$75 per event for the use of explosives in special operations or emergency conditions.

P. 107.14 State annual inspection permit fees. Annual fees for inspection permits issued by the State Fire Marshal's office for the inspection of buildings shall be as follows:

1. Nightclubs.
  - 1.1. \$350 for occupant load of 100 or less.
  - 1.2. \$450 for occupant load of 101 to 200.
  - 1.3. \$500 for occupant load of 201 to 300.
  - 1.4. \$500 plus \$50 for each 100 occupants where occupant loads exceed 300.
2. Private schools ~~(kindergarten through 12th grade)~~ and private college dormitories with or without assembly areas. If containing assembly areas, such assembly areas are not included in the computation of square footage.
  - 2.1. \$150 for 3500 square feet or less.
  - 2.2. \$200 for greater than 3500 square feet up to 7000 square feet.
  - 2.3. \$250 for greater than 7000 square feet up to 10,000 square feet.
  - 2.4. \$250 plus \$50 for each additional 3000 square feet where square footage exceeds 10,000.
3. Assembly areas that are part of private schools ~~(kindergarten through 12th grade)~~ or private college dormitories.
  - 3.1. \$50 for 10,000 square feet or less provided the assembly area is within or attached to a ~~school or~~ dormitory building.
  - 3.2. \$100 for greater than 10,000 square feet up to 25,000 square feet provided the assembly area is within or attached to a ~~school or~~ dormitory building, such as gymnasiums, auditoriums or cafeterias.
  - 3.3. \$100 for up to 25,000 square feet provided the assembly area is in a separate or separate buildings such as gymnasiums, auditoriums or cafeterias.
  - 3.4. \$150 for greater than 25,000 square feet for assembly areas within or attached to a ~~school or~~ dormitory building or in a separate or separate buildings such as gymnasiums, auditoriums or cafeterias.
4. Hospitals.
  - 4.1. \$300 for 1 to 50 beds.
  - 4.2. \$400 for 51 to 100 beds.
  - 4.3. \$500 for 101 to 150 beds.
  - 4.4. \$600 for 151 to 200 beds.
  - 4.5. \$600 plus \$100 for each additional 100 beds where the number of beds exceeds 200.

I think the answer falls somewhere between the ICC Fire Code provisions and the state amendments. A combination of monthly staff drills demonstrating each shift's preparation, quarterly resident drills at any point during the day (lacking late night/early morning) with assemblage on the floor of residency with a staff check of participation/residence check for those that are not accounted for, and an annual full scale drill could be the answer.

## 2006 ICC International Fire Prevention Code

**2003 Definition - State Regulated Care Facility (SRCF)** A building or part thereof occupied by persons in the care of others where program regulatory oversight is provided by the Virginia Department of Social Services; Virginia Department Mental Health, Mental Retardation and Substance Abuse Services; Virginia Department of Education or Virginia Department of Juvenile Justice (Groups R-2, R-3, R-4 and R-5).

### SECTION 401

#### GENERAL

**401.1 Scope.** Reporting of emergencies, coordination with emergency response forces, emergency plans, and procedures for managing or responding to emergencies shall comply with the provisions of this section.

**Exception:** Firms that have approved on-premises fire-fighting organizations and that are in compliance with approved procedures for fire reporting.

Add Section 401.1.1 to read:

**401.1.1 State Regulated Care Facilities.** When a state license is required by the Virginia Department of Social Services; Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services; Virginia Department of Education; or Virginia Department of Juvenile Justice to operate, SRCF shall comply with this section and the provisions of Section 404.

**401.2 Approval.** Where required by this code, fire safety plans, emergency procedures, and employee training programs shall be approved by the fire code official.

**401.3 Emergency forces notification.** In the event an unwanted fire occurs on a property, the owner or occupant shall immediately report such condition to the fire department. Building employees and tenants shall implement the appropriate emergency plans and procedures. No person shall, by verbal or written directive, require any delay in the reporting of a fire to the fire department.

**401.3.1 Making false report.** It shall be unlawful for a person to give, signal, or transmit a false alarm.

**401.3.2 Alarm activations.** Upon activation of a fire alarm signal, employees or staff shall immediately notify the fire department.

**401.3.3 Emergency evacuation drills.** Nothing in this section shall prohibit the sounding of a fire alarm signal or the carrying out of an emergency evacuation drill in accordance with the provisions of Section 405.

**401.4 Interference with fire department operations.** It shall be unlawful to interfere with, attempt to interfere with, conspire to interfere with, obstruct or restrict the mobility of or block the path of travel of a fire department emergency vehicle in any way, or to interfere with, attempt to interfere with, conspire to interfere with, obstruct or hamper any fire department operation.

## F43-07/08

### 307.1.1

#### *Proposed Change as Submitted:*

**Proponent:** A. Keith Brown, North Metro Fire Rescue District, representing Fire Marshal's Association of Colorado

#### **Revise as follows:**

**307.1.1 Prohibited open burning.** Open burning ~~that is offensive or objectionable because of smoke or odor emissions~~ or when atmospheric conditions or local circumstances make such fires hazardous shall be prohibited.

**Reason:** The purpose of the proposed code change is to delete a prohibition imposed by the code; namely, a prohibition against offensive or objectionable smoke or odors resulting from open burning. Enforcement of said prohibition is inherently arbitrary and capricious because the current code language compels the Fire Code Official to render an unreasonably subjective and irreproducible judgment in the absence of quantitative guidelines provided in Section 307 or referenced standards. The proposed language preserves those historic prohibitions, such as high winds (atmospheric conditions) and/or drought (local circumstances), that are demonstrably linked to fire behavior.

**Cost Impact:** The code change will not increase the cost of construction.

#### **Committee Action:**

**Disapproved**

**Committee Reason:** The proposal was disapproved because the committee felt that the current text provides guidance for the fire code official by indicating the basis for responding to open burning complaints and should be retained without change.

#### **Assembly Action:**

**None**

#### *Individual Consideration Agenda*

**This item is on the agenda for individual consideration because a public comment was submitted.**

#### *Public Comment:*

**A. Keith Brown, North Metro Fire Rescue, representing Fire Marshal's Association of Colorado, requests Approval as Modified by this public comment.**

#### **Modify proposal as follows:**

**307.1.1 Prohibited open burning.** Open burning that is offensive or objectionable because of smoke emissions or when atmospheric conditions or local circumstances make such fires hazardous shall be prohibited.

**Commenter's Reason:** F43-07/08 was disapproved by Committee action. This public comment reflects the Committee's discussion that offensive smoke is a long-standing and legitimate basis for responding to open-burning complaints but that responding to complaints of an objectionable odor caused by open burning poses significant enforcement problems due to the excessive subjectivity inherent in evaluating odors. For example, the odor associated with a typical campfire may be pleasant to many people but may be considered acrid and objectionable by many others. The proposed change would eliminate language that forces the code official to make arbitrary decisions often based only on personal perception.

Final Action:      AS              AM              AMPC\_\_\_\_              D

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## F44-07/08

### 307.4.3 (New), 307.5, 302.1, 307

#### *Proposed Change as Submitted:*

**Proponent:** Tom Lariviere, Fire Department, Madison, MS, representing Joint Fire Service Review Committee

#### **1. Add new text as follows:**

**307.4.3 Portable outdoor fireplaces.** Portable outdoor fireplaces shall not be operated within 15 feet (3048 mm) of a structure or combustible material.

**Exception:** Portable outdoor fireplaces used in accordance with manufacturer's instructions at one- and two-family dwellings.

**2. Revise as follows:**

**307.5 Attendance.** Open burning, bonfires, ~~or recreational fires~~ and use of portable outdoor fireplaces shall be constantly attended until the fire is extinguished. A minimum of one portable fire extinguisher complying with Section 906 with a minimum 4-A rating or other approved on-site fire-extinguishing equipment, such as dirt, sand, water barrel, garden hose or water truck, shall be available for immediate utilization.

**3. Revise definitions as follows:**

**302.1 Definitions.** The following words and terms shall, for the purposes of this chapter and as used elsewhere in this code, have the meanings shown herein.

**OPEN BURNING.** The burning of materials wherein products of combustion are emitted directly into the ambient air without passing through a stack or chimney from an enclosed chamber. Open burning does not include road flares, smudgepots and similar devices associated with safety or occupational uses typically considered open flames, ~~or recreational fires~~ or use of portable outdoor fireplaces. For the purpose of this definition, a chamber shall be regarded as enclosed when, during the time combustion occurs, only apertures, ducts, stacks, flues or chimneys necessary to provide combustion air and permit the escape of exhaust gas are open.

**PORTABLE OUTDOOR FIREPLACE.** A portable, outdoor, solid-fuel-burning fireplace that may be constructed of steel, concrete, clay or other noncombustible material. A portable outdoor fireplace may be open in design, or may be equipped with a small hearth opening and a short chimney or chimney opening in the top.

**RECREATIONAL FIRE.** An outdoor fire burning materials other than rubbish where the fuel being burned is not contained in an incinerator, outdoor fireplace, portable outdoor fireplace, barbeque grill or barbeque pit and has a total fuel area of 3 feet (914 mm) or less in diameter and 2 feet (610 mm) or less in height for pleasure, religious, ceremonial, cooking, warmth or similar purposes.

**4. Revise section title as follows:**

**SECTION 307**  
**OPEN BURNING, AND RECREATIONAL FIRES AND PORTABLE OUTDOOR FIREPLACES**

**Reason:** This proposal adds a definition for portable outdoor fireplace and makes minor revision to definitions of open burning and recreational fire for clarification. The proposed addition of subsection 307.4.3 Portable Outdoor Fireplaces makes clear that the use of these devices is specifically regulated.

Portable outdoor fireplaces designed to burn solid fuel are available at retailers ranging from the local grocery to hardware store to big box retailers. Their widespread availability and use has created considerable confusion for citizens and the fire service as to how or if they are regulated by the IFC.

Fires in portable outdoor fireplaces cannot be considered a "recreational fire" because critical to that definition is the concept that the fire is not contained in an incinerator, outdoor fireplace, barbeque grill or barbeque pit. Some may then suggest that a portable outdoor fireplace is merely a type of "outdoor fireplace", but the IFC doesn't contain any references pertaining to where an outdoor fireplace can be located or operated.

Under the definition of open burning, the IFC commentary refers to patio fireplaces and states "These devices neither meet the literal definition of "open burning" nor is their use the type of burning intended to be regulated by Section 307, ..." However, the use and any hazard associated from operating a patio fireplace is closer to the type of activities regulated in Section 307 than use of other specific types of open flame addressed in Section 308. The current IFC Sections 307 and 308 are essentially silent on use of this specific type of device.

The proposal prohibiting use of portable outdoor fireplaces within 15 feet from any structure replicates the first exception under 307.4 Location. However, the proposal allows an exception for use of patio fireplaces at one- and two-family dwellings.

**Cost Impact:** The code change proposal will not increase the cost of construction.

**Committee Action:**

**Approved as Modified**

**Modify the proposal as follows:**

**307.4.3 Portable outdoor fireplaces.** Portable outdoor fireplaces shall be used in accordance with the manufacturer's instructions and shall not be operated within 15 feet (3048 mm) of a structure or combustible material.

~~**Exception:** Portable outdoor fireplaces used in accordance with manufacturer's instructions at one- and two-family dwellings.~~

(Portions of the proposal not shown remain unchanged)

**Committee Reason:** The proposal was approved because the committee felt that it provides needed clarification of the open burning regulations with respect to portable outdoor fireplaces. The modifications recognize that manufacturer's often provide additional safety suggestions in their instructions and that the new provisions should be applicable to all buildings without exception.

**Assembly Action:**

**None**

### *Individual Consideration Agenda*

**This item is on the agenda for individual consideration because public comments were submitted.**

#### *Public Comment 1:*

**Diane Hansen, Fire Department, City of Seattle, WA, representing Washington State Association of Fire Marshals, requests Approval as Modified by this public comment.**

**Further modify proposal as follows:**

**307.4.3. Portable outdoor fireplaces.** Portable outdoor fireplaces shall be used in accordance with the manufacturer's instructions and shall not be operated within 15 feet (3048 mm) of a structure or combustible material.

**Exception:** Portable outdoor fireplaces used at one-and two-family dwellings.

(Portions of proposal not shown remain unchanged)

**Commenter's Reason:** Proposal F-44 was submitted to provide clarity to the fire service and the public regarding regulation of the use of portable outdoor fireplaces, as their use does not meet the definition of either open burning or a recreational fire. Anyone who has ever answered or monitored the incoming phone lines at a large fire department will attest this question has become increasingly more frequent, as availability of the devices has increased to where they can now be found at a wide variety of retail stores, including your local grocery.

The unintended effect of striking the exception to F-44 will result in a new body of work for the fire service as the "portable outdoor fireplace police" and the arbitrator of every neighbor dispute over such use.

The original proposed code language of F-44 was developed with the intent to specifically regulate use of portable outdoor fireplaces at R-1 and R-2 occupancies, but not at one-and two-family homes. The practice of providing exceptions for one- and two-family dwellings from certain regulated activities is consistent with other areas of the code as noted in the following examples.

**308.3.1 Open-flame cooking devices** – An exception is provided for one and two-family dwellings from the prohibition on use of open flame on combustible balconies and within 10 ft of combustible construction.

**308.3.1.1 Liquefied-petroleum-gas-fueled cooking devices.** – An exception is provided for one and two-family dwellings from the prohibition on use of LP fueled cooking devices on combustible balconies (greater than 2.5 pounds) and within 10 ft. of combustible construction.

**603.4 Portable unvented heaters.** An exception is provided for one and two-family dwellings on the prohibition of use of unvented heaters inside dwellings.

**903.4 Sprinkler system monitoring and alarms and 907.15 Monitoring.** One and two-family dwellings are exempted from the monitoring of sprinkler systems and alarms through an exception.

The IFC provides minimum standards for fire and life safety. There may be some states where climatic conditions are such that potential for urban, urban-interface and wildland fires would warrant the regulation of these devices at one- and two-family dwellings. But as a minimum code, those jurisdictions requiring more stringent regulations should enact those regulations, and not subject all jurisdictions to enforcing requirements that may not be necessary, and may in fact be too burdensome when compared with the incidence of fire from the regulated activity.

Approving the F-44 as modified by the proposed exception takes a similar activity and treats it consistently with the manner in which the code addresses use of open flame and use of charcoal and LP-fueled cooking devices at one and two-family dwellings.

Approving the exception as proposed by this comment will relieve the fire service from the role as regulator of a common activity in one- and two-family dwellings. This is a delicate line that should be crossed only when fire incidence and imminent threat to life safety clearly warrants such action.

#### *Public Comment 2:*

**Tom Lariviere, Fire Department, Madison, MS, representing Joint Fire Service Review Committee, requests Approval as Modified by this public comment.**

**Further modify proposal as follows:**

**307.4.3. Portable outdoor fireplaces.** Portable outdoor fireplaces shall be used in accordance with the manufacturer's instructions and shall not be operated within 15 feet (3048 mm) of a structure or combustible material.

**Exception:** At one- and two-family dwellings, portable outdoor fireplaces shall be allowed to be located at a reduced clearance when operated in accordance with the manufacturer's instructions for operation near combustibles.

(Portions of proposal not shown remain unchanged)

**Commenter's Reason:** This Public Comment is designed to allow the use of portable outdoor fireplace at a distance of less than 15' to a dwelling. The section as modified by the committee specifies that the fireplace must be in accordance with the manufacturer's instructions AND 15' from a structure. The Committee modification will require that at one- and two-family dwellings the portable fireplace must be located 15' from the dwelling. The Committee modification went further than was intended by the original proposal. 15' from a dwelling is not a practical requirement and would be difficult to enforce.

This proposed Public Comment will maintain the 15' from a structure, but will allow that distance to be reduced to the distance specified in the manufacturer's instructions when located at a one- or two-family dwelling.

Final Action: AS AM AMPC\_\_\_\_\_ D

## F45-07/08

308.3, 308.3.1, 308.3.2

### *Proposed Change as Submitted:*

**Proponent:** Michael E. Dell'Orfano, South Metro Fire Rescue, representing Fire Marshal's Association of Colorado

#### **Revise as follows:**

**308.3 Open flame decorative devices.** Open flame decorative devices shall be used in accordance with this section. ~~A person shall not utilize or allow to be utilized, an open flame in connection with a public meeting or gathering for purposes of deliberation, worship, entertainment, amusement, instruction, education, recreation, awaiting transportation or similar purpose in Group A or E occupancies without first obtaining a permit in accordance with Section 105.6.~~

**308.3.4 308.7 (Supp) Open-flame cooking devices.** Charcoal burners and other open-flame cooking devices shall not be operated on combustible balconies or within 10 feet (3048 mm) of combustible construction.

#### **Exceptions:**

1. One- and two-family dwellings.
2. Where buildings, balconies and decks are protected by an automatic sprinkler system.
3. LP-gas cooking devices having LP gas container with a water capacity not greater than 2.5 pounds [nominal 1 pound (0.454 kg) LP-gas capacity].

**308.3.2 308.3.1** ~~Open flame decorative devices~~ General requirements. Open-flame decorative devices shall comply with all of the following restrictions:

1. through 10. (No change to current text)

**Reason:** The purpose of this code change proposal is to clarify the scope of IFC Section 308.3. The way 308.3 is currently written can lead someone to believe that this section only applies to Group A and E occupancies. However, that charging paragraph only says that those uses need a permit per 105.6. This is further supported by the fact that Section 308.3.8 addresses Group R-2 Dormitories. Also, with the exception of the cooking device subsection, all other components of 308.3 appear to only address open-flame decorative devices. Therefore, the title of 308.3 was changed to reflect this scope, open-flame cooking devices were moved to a stand-alone section (similar to food preparation, torches, portable-fueled devices, etc.), and the title of 308.3.2 was changed to "general requirements" to reflect its intended use. General permit requirements are already addressed in 301.2.

**Cost Impact:** The code change proposal will not increase the cost of construction.

#### **Committee Action:**

**Disapproved**

**Committee Reason:** The proposal was disapproved because the committee felt that it would eliminate the permitting requirement for Group A and E occupancies, which the committee felt was inappropriate.

#### **Assembly Action:**

**None**

### *Individual Consideration Agenda*

**This item is on the agenda for individual consideration because a public comment was submitted.**

Prior to May 1, 2008, Section 315.3.1 of the International Fire Code, incorporated by reference into the Virginia Statewide Fire Prevention Code ("SFPC"), stated:

Combustible materials stored or displayed outside of buildings that are protected by automatic sprinklers shall not be stored or displayed under nonsprinklered eaves, canopies, or other projections or overhangs

After May 1, 2008, Section 315.3.1 of the SFPC was amended to state:

To the extent required by the code the building was constructed under, when buildings are required to be protected by automatic sprinklers, the outdoor storage, display and handling of combustible materials under eaves, canopies or other projections or overhangs is prohibited except where automatic sprinklers are installed under such eaves, canopies or other projections or overhangs.

The amendment clearly prohibits the storage of combustible materials under certain eaves except where automatic sprinklers are installed *under* such eaves. However, the beginning phrase of the prohibition, "to the extent required by the code the building was constructed under," is confusing, because it is difficult to tell what that phrase modifies, the requirement that the building be protected by sprinklers, or the prohibition against outside storage itself.

Given the confusion over the beginning phrase, the Fire Marshal asks the following:

**Does Section 315.3.1 mean that when a building is required by the code under which it was constructed to be protected by automatic sprinklers, outdoor storage of combustible materials under eaves is prohibited except where automatic sprinklers are installed under such eaves?**

For example, suppose a hardware store was constructed in 1995. The code under which the building was constructed required automatic sprinkler protection throughout the interior of the building. Accordingly, the building is protected by automatic sprinklers. Does Section 315.3.1 prohibit outdoor storage of combustible materials under the hardware store's exterior eaves except where automatic sprinklers are installed under such eaves?

**Commenter's Reason:**

- 1) To comply with the directions of the committee.
- 2) As stated by the original proposal: Polyethylene laundry carts have a fuel value equal to gasoline and are frequently subject to spontaneous ignition. The City of Portland has experienced two recent fires \$400k+ each with extensions \$100k+ each, due to spontaneous ignition. Last year the Oregon State Coffey Creek Correction Facility had a commercial dryer fire with no loss using the ASTM 1354 container. The commercial dryer fire was emptied in to the container and taken outside and overhauled without evacuation, loss to the structure or damage the container. This revision is supported by the Oregon Laundry Association.

**Public Comment 2:**

**Marcelo M. Hirschler, GBH International, representing American Fire Safety Council, requests Approval as Modified by this public comment.**

**Replace proposal as follows:**

**SECTION 316  
LAUNDRY CARTS**

**316.1 Laundry Carts with a capacity of 1 cubic yard or greater.** Laundry carts with an individual capacity of 1.0 cubic yard [200 gallons (0.76 m<sup>3</sup>)] or more, used in laundries within Group B, F-1 and R-1 occupancies, shall be constructed of noncombustible materials or of combustible materials with a peak rate of heat release not exceeding 300 kW/m<sup>2</sup> when tested in accordance with ASTM E 1354 at an incident heat flux of 50 kW/m<sup>2</sup> in the horizontal orientation.

Exceptions:

1. Laundry carts in areas protected by an approved automatic sprinkler system installed throughout in accordance with Section 903.3.1.1.
2. Laundry carts in coin-operated laundries.

**Commenter's Reason:** The committee stated that they disapproved this proposal because the term "commercial laundries" was unclear and because the size was undetermined. Changes were made to address both issues.

1. Language, including a title, is being proposed that includes the laundry cart size.
2. The comment proposes language that addresses laundries with Group B, F-1 and R1 occupancies only, which are the real commercial laundries.
3. The comment proposes revised language that is parallel to that in section 304 for waste containers and dumpsters.
4. Laundry carts in coin-operated laundries are exempted irrespective of where they are.

As explained in the original proposal, if these laundry carts are constructed of polyethylene (as they usually are) they represent a severe fire source. The peak rate of heat release criterion recommended, based on ASTM E 1354, is the same one that is already included in the IFC in section 808.1 and was proposed in the accepted proposal F41 for section 304.3.2, as well as in the IBC in 402.11.1.

Final Action: AS AM AMPC D

**F59-07/08**

**403.3 (New)**

**Proposed Change as Submitted:**

**Proponent:** Tom Lariviere, Fire Department, Madison, MS, representing Joint Fire Service Review Committee

**Add new text as follows:**

**403.3 Crowd manager.** Trained crowd managers shall be provided for facilities or events where more than 1000 persons congregate. The minimum number of crowd managers shall be established at a ratio of one crowd manager to every 250 persons. Where approved by the fire code official, the ratio of crowd managers shall be permitted to be reduced where the facility is equipped throughout with an approved automatic sprinkler system or based upon the nature of the event.

**Reason:** The only requirement for crowd managers is in Section 2404.20 for tents. Large assemblies of people create the need for crowd management due to panic and fear in emergency situations in numerous other locations than just tents. It is the intent of this proposal for crowd managers to be personnel already assigned and employed by the facility. Current employees can be trained as crowd managers to fulfill this requirement. At the time of an emergency, the trained crowd managers would take on these additional responsibilities to control and direct the audience or attendees in a safe manner.

**Cost Impact:** The code change proposal will not increase the cost of construction.

**Committee Action:**

**Committee Reason:** The proposal was approved because the committee felt that it is appropriate to provide enhanced life safety in large Group A venues by providing patron assistance in emergencies. The committee did observe, however, that there should be more guidance on the training required and clarification that existing staff can be used and the fact that new staff need not be hired for this purpose.

**Assembly Action:**

**None**

### *Individual Consideration Agenda*

**This item is on the agenda for individual consideration because a public comment was submitted.**

*Public Comment:*

**Jackie D. Pike, Red, White & Blue Fire District, representing Fire Marshal's Association of Colorado, requests Approval as Modified by this public comment.**

**Modify proposal as follows:**

**403.3 Crowd Manager.** Trained crowd managers shall be provided for facilities or events where ~~more than 1000 or more~~ persons congregate. The minimum number of crowd managers shall be established at a ratio of one crowd manager ~~to every~~ starting at 250 persons and one for every 250 persons thereafter. Where approved by the fire code official, the ratio of crowd managers shall be permitted to be reduced where the facility is equipped throughout with an approved automatic sprinkler system, the number of exits are increased, or based upon the nature of the event. The owner, agent, or lessee shall assign or employ one or more qualified persons, as approved by the fire code official, to remain on duty during the times such facilities or events are open to the public.

**Commenter's Reason:** F59-07/08 was approved as submitted at the code hearings in Palm Springs, however, the committee did observe that there should be more guidance on the training required, clarification that existing staff can be used, and the fact that new staff need not be hired for this purpose. This submittal attempts to address these issues.

This public comment recommends modification by clarifying the number of crowd managers required for an event. The existing wording is unclear—if we are saying one crowd manager for every 250 occupants starting at 1000, does this mean four managers for the first 1000 people, or the first crowd manager starting at 1250? This change clarifies that a crowd of 1000 persons is required to have four crowd managers.

Adding a provision for the fire code official to approve the training required for crowd managers allows individual fire code officials to evaluate factors specific to their jurisdictions.

The provision for a reduction of crowd managers based on increased exits allows the code official to reduce the number of crowd managers required if the venue has more exits than required by the code.

The final statement addresses the committees' concern with regard to the ability to utilize existing staff versus the unintended requirement to hire additional staff. It allows for the owner to choose the option that best suits them, as long as crowd managers meet the approval of the fire code official. This statement is similar to the code requirements of Section 2404.20.

Final Action:      AS              AM              AMPC\_\_\_\_      D

## **F60-07/08**

### **404.2, Table 405.2**

#### *Proposed Change as Submitted:*

**Proponent:** Tom Lariviere, Fire Department, Madison, MS, representing Joint Fire Service Review Committee

**Revise as follows:**

**404.2 Where required.** An approved fire safety and evacuation plan shall be prepared and maintained for the following occupancies and buildings.

1. Group A, other than Group A occupancies used exclusively for purposes of religious worship that have an occupant load less than 2,000.
2. Group B buildings having an occupant load of 500 or more persons or more than 100 persons above or below the lowest level of exit discharge.
3. Group E.
4. Group F.
4. 5. Group H.
5. 6. Group I.
6. 7. Group R-1.
7. 8. Group R-2 college and university buildings.
8. 9. Group R-4.

- 9-10. High-rise buildings
- 10-11. Group M buildings having an occupant load of 500 or more persons or more than 100 persons above or below the lowest level of exit discharge.
- 11-12. Covered malls exceeding 50,000 square feet (4645 m<sup>2</sup>) in aggregate floor area.
- 12-13. Underground buildings.
- 13-14. Buildings with an atrium and having an occupancy in Group A, E or M.

**TABLE 405.2**  
**FIRE AND EVACUATION DRILL FREQUENCY AND PARTICIPATION**

GROUP OR OCCUPANCY	FREQUENCY	PARTICIPATION
Group A	Quarterly	Employees
Group B <sup>c</sup>	Annually	Employees
Group E	Monthly <sup>a</sup>	All occupants
Group F	Annually	Employees
Group I	Quarterly on each shift	Employees <sup>b</sup>
Group R-1	Quarterly on each shift	Employees
Group R-2 <sup>d</sup>	Four annually	All occupants
Group R-4	Quarterly on each shift	Employees <sup>b</sup>
High-rise buildings	Annually	Employees

(Footnotes remain unchanged)

**Reason:** The IFC currently requires fire-safety plans in practically every occupancy group with the exception of Group F occupancies. Under the Code, the only "manufacturing" occupancy that requires a fire-safety plan is Group H occupancies. The only difference between a Group F and a Group H occupancy is the aggregate amount of hazardous materials present in the facility and some of the manufacturing processes. In many Group F occupancies, there can be processes and hazards that theoretically make them just as hazardous as a Group H occupancy. But because these facilities fall short of the aggregate amount of chemicals, they are not classified as Group H.

Group F manufacturing facilities should have written fire safety and evacuation plans to protect the workers. Under 29 CFR 1910.39(b), OSHA requires that any workplace with more than ten (10) employees shall have a written fire prevention plan. The code should at least parallel the OSHA Standard.

Manufacturing facilities should be required to have at least annual emergency evacuation drills due to the size and complexity of some of these facilities. It will increase the life safety of the occupants to practice evacuation procedures.

**Cost Impact:** The code change proposal will not increase the cost of construction.

**Committee Action:**

**Approved as Submitted**

**Committee Reason:** The proposal was approved because the committee felt that it is appropriate to enhance the level of safety in industrial occupancies by requiring a fire safety and evacuation plan and drills for employees. The committee did observe, however, that further definition of the applicability triggers is needed, e.g. in how big a Group F, how many occupants, should Group F-2, which deals with essentially noncombustible materials, be included?

**Assembly Action:**

**None**

### *Individual Consideration Agenda*

**This item is on the agenda for individual consideration because a public comment was submitted.**

*Public Comment:*

**Tom Lariviere, Fire Department, Madison, MS, representing Joint Fire Service Review Committee, requests Approval as Modified by this public comment.**

**Modify proposal as follows:**

**404.2 Where required.** An approved fire safety and evacuation plan shall be prepared and maintained for the following occupancies and buildings.

1. Group A, other than Group A occupancies used exclusively for purposes of religious worship that have an occupant load less than 2,000.
2. Group B buildings having an occupant load of 500 or more persons or more than 100 persons above or below the lowest level of exit discharge.
3. Group E.
4. Group F buildings having an occupant load of 500 or more persons or more than 100 persons above or below the lowest level of exit discharge.
5. through 14. (No change to current text)

(Portions of proposal not shown remain unchanged)

## Rodgers, Emory

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**From:** Rodgers, Emory

**Sent:** Monday, July 28, 2008 7:13 AM

**To:** Hodge, Vernon; Shelton, Bill

On Friday I attended a meeting with John Catlett, building official, Alexandria. He is also the fire official and had an issue with the SFPC Sections Table 405.2, 408.2.1, 408.5.4, 408.5.5 and 408.10.5 that regulate fire drills and evacuation of residents in I-1 and highrise assisted living facilities. Alexandria has a licensed I-1 but was not requiring the residents to evacuate to the outside for fear of causing distress and possible injury to the residents and also subjecting them to the heat/cold and inclement weather during the year. John worked out a reasonable and fair solution allowing the fire drills and evacuation to be to a designated interior space and then have a building evacuation only on an agreed day and time.

Ed and Glenn attended and agreed with the solution noting they probably weren't also requiring total evacuation 6 times per year nor were many fire officials. So there is an apparent need to change and coordinate these SFPC/IFC sections to fit Virginia and I suspect should be ICC code changes too for 2012.

Ed was going to bring this up at the Fire Services Board meeting in August and then have the FSB Code Committee propose code changes and discuss also doing emergency legislation. I told the group including the operators that the BHCD would certainly be looking at this for the 2009 regulatory cycle through our consensus process that includes the FSBCC and advice from the FSB as part of their coordination with the BHCD. Ed and the fire officials have a real concern that these I-1 assisted living facilities might need more safeguards as the residents have some mental or physical issues and need some assistance to evacuate. I agree and ICC has a committee doing this review and have changes for the 2009 ICC model codes. The fire services want more built in safety than what is currently being proposed at the ICC level. I think the ICC has it right by having some additional compartmentalization but the proposed changes don't increase all the fire ratings nor reduce the height and areas of current buildings where sprinklers have done an excellent job of protection.

My take is there is no need for emergency legislation to then have the IFC done out of the 2009 regulatory cycle so the many facets necessary to review and coordinate with the USBC can occur in an open and inclusive process. Not sure if Ed and Glenn will move forward with the idea of emergency legislation through the FSB but this is one issue for the November joint meeting of the two boards and definitely a 2009 USBC/SFPC set of issues.

**Commenter's Reason:** The Code Development Committee approved this item on the basis that the Joint Fire Service Review Committee would return and provide some parameters and limitations on the application to F occupancies.

This Public Comment limits the application of these requirements to F occupancies with more than 500 occupants, or F occupancies with more than 100 occupants above or below the level of exit discharge.

Consideration was given as to whether F-2 should be included along with the F-1 occupancies. Based on the fact that IFC 907.2.4 requires a fire alarm to be installed in either an F-1 or an F-2 at the same threshold of 500 occupants or 100 above or below exit discharge, it was determined that same fire evacuation drill requirements would be appropriate. The F-2 will have a fire alarm installed at these levels, therefore, the occupants should be aware of their expected action when it activates.

Final Action: AS AM AMPC\_\_\_\_\_ D

## F61-07/08

**404.1, 404.3.3 through 404.3.3.3 (New), 406.3.3 (New), 402.1 (New)**

### *Proposed Change as Submitted:*

**Proponent:** Tom Lariviere, Fire Department, Madison, MS, representing Joint Fire Service Review Committee

#### **1. Revise as follows:**

**404.1 General.** Fire safety, evacuation and lockdown plans and associated drills shall comply with the requirements of this section. The plans shall not conflict with other sections of this code.

#### **2. Add new text as follows:**

**404.3.3 Lockdown plans.** Where facilities develop a lockdown plan, the lockdown plan shall be in accordance with Sections 404.3.3.1 through 404.3.3.3.

**404.3.3.1 Lockdown plan contents.** Lockdown plans shall be approved by the fire code official and shall include the following:

1. Initiation. The plan shall include instructions for reporting an emergency that requires a lockdown.
2. Accountability. The plan shall include accountability procedures for staff to report the presence or absence of occupants.
3. Recall. The plan shall include pre-arranged signal for returning to normal activity.
4. Communication and coordination. The plan shall include an approved means of two-way communication between a central location and each secured area.
5. The plan shall be in accordance with the National Incident Management System and applicable state and federal laws or regulations.

**404.3.3.2 Training frequency.** The training frequency shall be included in the lockdown plan. The lockdown drills shall not substitute for any of the fire and evacuation drills required in Section 405.2.

**404.3.3.3 Lockdown notification.** The method of notifying building occupants of a lockdown shall be included in the plan. The method of notification shall be separate and distinct from the fire alarm signal.

**406.3.3 Emergency lockdown training.** Where a facility has a lockdown plan, employees shall be trained on their assigned duties and procedures in the event of an emergency lockdown.

(Renumber remaining sections)

#### **3. Add new definition as follows:**

**402.1 Definition.** The following word and term shall, for the purposes of this chapter and as used elsewhere in this code, have the meaning shown herein.

**LOCKDOWN.** An emergency situation requiring that the occupants be sheltered and secured in place within a building when normal evacuation would put occupants at risk.

National Institute for Occupational Safety and Health released a report, 'Preventing Injuries and Deaths of Fire Fighters Due to Truss System Failures' recommends identifying structures by suggesting that building owners and managers "Consider placing building construction information outside the building. Include information about roof and floor type (presence of trusses, materials used), roof loads (heating, ventilation, and air conditioning (HVAC) units, displays), sprinkler systems, utilities, chemicals on site and contact numbers. Use and follow the proper building codes."

This Building Information Sign has brought many people together from various industries (the structural building component, steel & wood industries, building officials, fire service) to collaborate on a BIS system that is comprehensive and meets the need of the fire service for information that allows for a quicker building assessment on the fire ground. This addresses a key question that has been asked for quite some time -- "How do we provide building information to the fire service?". With this Building Information Sign we are providing the responding fire fighters crucial information at the most important time period. Officers will be able to make educated decisions based on the information provided in this sign or be prompted by the Tactical Considerations to request better information.

**Bibliography:**

1. NIOSH Alert -- "Preventing Injuries and Deaths of Fire Fighters due to Truss System Failures" April 2005

Final Action:        AS            AM            AMPC\_\_\_\_\_        D

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## **F75-07/08, Part II**

### **IBC 501.3 (New)**

#### *Proposed Change as Submitted:*

**Proponent:** Sean DeCrane, Cleveland, OH Fire Department representing International Association of Fire Fighters Local #93, Cleveland, OH; Kirk Grundahl, WTCA Representing the Structural Building Component Industry

#### **PART II – IBC GENERAL**

##### **1. Add new text as follows:**

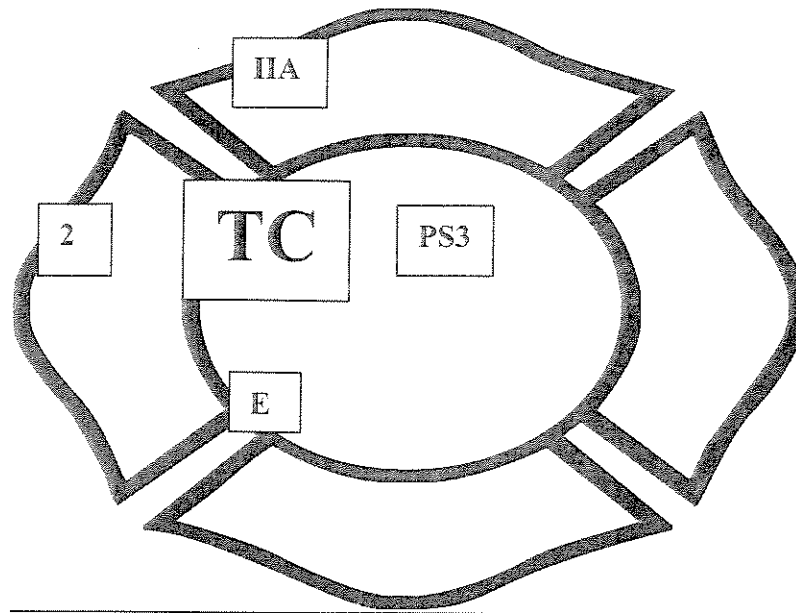
**501.3 Building information sign.** Building information signs shall comply with Sections 501.3.1 through 501.3.7.

**501.3.1 Sign location.** The Building information sign shall be placed on a minimum of two exterior walls containing a means of access to a building or facility, no lower than 42" or no higher than 60" inches, and no further than six (6) feet from main entry point's unhinged side, or right side if non-hinged opening. Local jurisdictions shall have the authority to require additional locations.

**501.3.1.2 Sign features.** The building information sign shall consist of:

1. White reflective background with red letters;
2. Durable material;
3. Numerals shall be Roman or Latin numerals, as required, and/or alphabet letters;
4. Permanently affixed to the building or structure in an approved manner.

**501.3.1.3 Sign shape.** The building information sign shall be a Maltese Cross as shown in Figure 501.3.1.3



**FIGURE 501.3.1.3  
BUILDING INFORMATION SIGN**

**501.3.1.4 Sign size and lettering.** The minimum size of the building information sign and lettering shall be in accordance with the following:

1. The width and height shall be 6 inches by 6 inches
2. The height or width of each Maltese cross wing area shall be 1 1/8 inches and have a stroke width of 1/2 inch;
3. The center of the Maltese cross a circle of oval 3 1/8 inches in diameter and has a stroke width of 1/2 inch;
4. All roman numerals and/or alphabetic designations, shall be 1 1/4 inch height and have a stroke width of 1/4 inch.

**501.3.2 Sign Designations.** Designations shall be made based upon the construction type, content, hazard, fire protection systems, life safety and occupancy. Where multiple designations occur within a classification Category, the designation used shall be based on the greatest potential risk.

**501.3.3 Construction type (top wing).** The construction types shall be designated by assigning the appropriate Roman numeral, and letter, placed inside the top wing of the Maltese cross. The hourly rating provided is for the structural framing in accordance with Table 601 of the *International Building Code*.

<u>Construction Type</u>	<u>Hourly Rating</u>
Fire Resistive Construction -	3 Hour Rating
IB – Fire Resistive Construction -	2 Hour Rating
IIA – Non-Combustible Construction -	1 Hour Rating
IIB – Non-Combustible Construction -	0 Hour Rating
IIIA – Ordinary Construction -	1 Hour Rating
IIIB – Ordinary Construction -	0 Hour Rating
IV – Heavy Timber Construction	
V – Combustible Construction –	0 Hour Rating

**501.3.4 Hazards of content (left wing).** The hazards of building contents shall be designated by one of the following classifications as defined in NFPA 13 and the appropriate designation shall be placed inside the left wing of the Maltese cross:

- 1 – Light Hazard
- 2 – Moderate Hazard
- 3 – High Hazard

**501.3.5 Fire protection systems (right wing).** The fire protection systems shall be designated by determining its level of protection and assigning the appropriate designation to the right wing of the Maltese cross. Where multiple systems are provided, all shall be listed:

AS – Automated Fire Sprinkler System installed throughout;  
PS – Partial Automatic Fire Sprinkler System, and designate floor;  
CS – Combination Sprinkler and Standpipe System;  
S – Standpipe System;  
NS – No system installed

**501.3.6 Occupancy type (bottom wing).** The occupancy of a structure can accompany particular hazards related to the stated occupancy. Identifying the occupancy of a structure will allow fire fighters to make informed tactical assumptions and decisions. Occupancies shall be designated in accordance with the occupancy classification found in Section 302.1 of the *International Building Code* and the corresponding designation shall be placed in the bottom wing of the Maltese cross.

A – Assembly  
B – Business  
E – Educational  
F – Factory or Industrial  
H – High Hazard  
I – Institutional  
M – Mercantile  
R – Residential  
S – Storage  
U – Utility or Miscellaneous

**501.3.7 Tactical considerations (center circle).** The building identification marker is designed to provide key information in the initial stages of a fire ground incident. The information contained on this sign will allow the initial response fire fighters on the initial response group to make more well informed and quicker tactical decisions.

**501.3.7.1 Additional Information.** Where fire fighters conduct pre-plan operations, unique situations shall be identified and placed under within the center section of the sign to allow the initial response fire fighters to identify that there are special considerations for this occupancy. Special consideration designations include, but are not limited to:

1. Protect in place
2. Limited mobility
3. Handicapped occupants
4. Impact resistant drywall
5. Impact resistant windows;
6. All types of roof and floor structural members including but not limited to post tension concrete, bar joists, joists, rafters, trusses, I-joists and I-beams);
7. Chemicals;
8. Plastics;
9. Explosives

Inspectors are authorized to use NFPA 1620 as a guide.

**501.3.8 Sign classification maintenance.** Sign classification maintenance shall comply with all of the following:

1. Fire departments in the jurisdiction shall define the designations to be placed within the sign.
2. Fire departments in the jurisdiction shall conduct annual inspections to verify compliance with this section of the code.
3. The owner of a building shall be responsible for the maintenance and updates to the sign in accordance to fire department designations.
4. The owner of a building shall notify the fire department of any changes that possibly effect the classifications, of the system, within thirty (30) days of the changes and the Fire Department shall conduct an inspection.
5. The owner of a building shall change the effected classification posted on the sign within thirty (30) days of the changes.

**501.3.9 Training.** Jurisdictions shall train all fire department personnel on the building identification marker.

(Renumber subsequent sections)

## 2. Add standard to Chapter 35 as follows:

### NFPA

#### 1620-03 Recommended Practice for Pre-Incident Planning

**Reason:** This Building Information Sign (BIS) is designed to be utilized in the crucial initial response of fire fighters to a structure fire. Similar to the Emergency Response Guidebook, published by the Department of Transportation, the BIS is designed to be utilized in the initial fifteen (15) to thirty (30) minutes of an incident. Fire fighters are trained to size up a situation as early as notification, sometimes appearances can be deceiving, a type of construction may not appear to be what it really is. This is becoming an occurrence with urban renewal. As communities try to design neighborhoods and maintain structural consistency, what may appear to be a traditional form of construction is now a designed lightweight system. In the dark, or to mutual aid crews, this is not always apparent. Having the BIS will allow responding companies to make an informed tactical decision. The responding company will be able to identify the type of construction, hazard level of the contents, occupancy of the building and whether the building is protected with automatic suppression and the extent of the protection. In Tactical Considerations, we will allow fire fighters to identify additional considerations and prepare for them. Just by seeing that there are additional considerations would give fire fighters pause to consider additional aspects of the situation. Are there Protect in Place, Handicap or Limited Mobility concerns of the occupants. Is the interior constructed using impact resistant dry wall which will make wall breaching very difficult, is there lexan glazing? These are a sample of concerns that would cause a fire fighter to consider options at an incident. Does the building contain lightweight construction in the roof or floors. This can be identified and placed in the Tactical Considerations. The National Institute for Occupational Safety and Health released a report, 'Preventing Injuries and Deaths of Fire Fighters Due to Truss System Failures' recommends identifying structures by suggesting that building owners and managers "Consider placing building construction information outside the building. Include information about roof and floor type (presence of trusses, materials used), roof loads (heating, ventilation, and air conditioning (HVAC) units, displays), sprinkler systems, utilities, chemicals on site and contact numbers. Use and follow the proper building codes." Tactical Considerations, allows fire fighters to identify the type of construction that puts them at risk. The author also recommends the use of NFPA 1620 as a guide for Pre-Plan operations.

#### Bibliography:

1. NIOSH Alert – "Preventing Injuries and Deaths of Fire Fighters due to Truss System Failures" April 2005

**Cost Impact:** The code change proposal will have a minimal increase to the cost of construction.

**Analysis:** Review of proposed new standard NFPA 1620-03 indicated that, in the opinion of ICC Staff, the standard did not comply with ICC standards criteria.

### PART II – IBC GENERAL

#### Committee Action:

**Disapproved**

**Committee Reason:** The committee liked the concept but had several areas of concern including which two walls the signs should be located on, how buildings with fire resistance rating reductions are labeled and the practicality of labeling a building with multiple occupancies. The charging language requiring such signs needs revising to be effective. A suggestion of placing such language in Chapter 9 was also offered.

#### Assembly Action:

**None**

#### Individual Consideration Agenda

This item is on the agenda for individual consideration because a public comment was submitted for Part II.

#### Public Comment:

Sean DeCrane, Fire Department, Cleveland, OH, requests Approval as Modified by this public comment for Part II.

Kirk Grundahl, Wood Truss Council of America (WTCA), requests Approval as Modified by this public comment for Part II.

Jack Murphy, Fire Safety Directors of Greater New York, requests Approval as Modified by this public comment for Part II.

Replace Part II – IBC of proposal with the following:

**501.3 Building information sign.** New buildings shall have a building information sign(s) that shall comply with Sections 501.3.1 through 501.3.7.

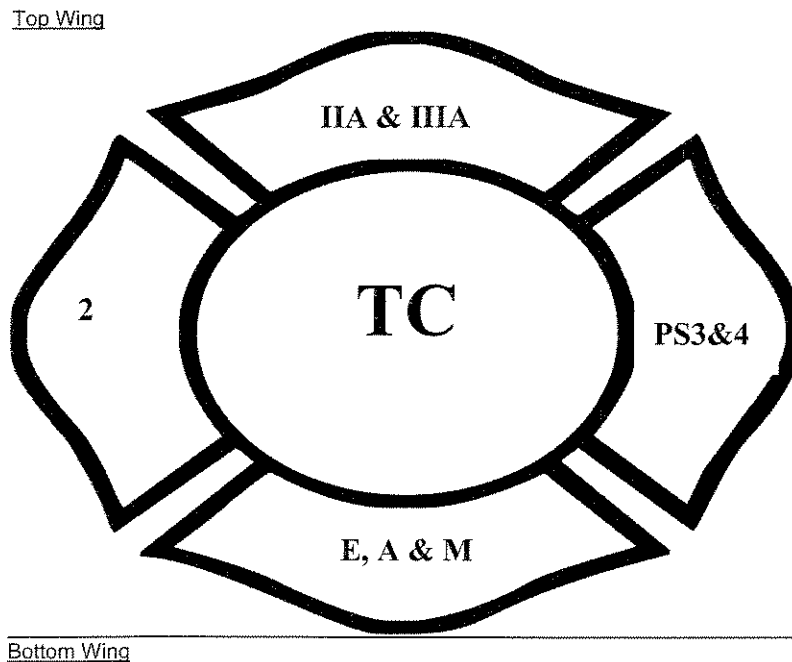
**501.3.1 Sign location.** The Building information sign shall be placed on one of the following:

- 1-1. The entry door or sidelight, of the address side of the building or structure, at a minimum height of 42" above the walking surface;
- 2-2. The exterior surface of the building or structure no further than 3' from the entrance door, on either side of the entry door, at a minimum height of 42" above the walking surface on the address side of the building or structure;
- 3-3. Conspicuously placed inside an enclosed entrance lobby, on any vertical surface within 10 feet of the entrance door at a minimum height of 42" above the walking surface;
- 4-4. Located inside the building's fire command center;
- 5-5. Located on the exterior of the fire alarm panel or immediately along side the panel door on the wall if the alarm panel is located in the enclosed mail lobby.

**501.3.1.2 Sign features.** The building information sign shall consist of:

1. White reflective background with red letters;
2. Durable material;
3. Numerals shall be Roman or Latin numerals, as required, and/or alphabet letters;
4. Permanently affixed to the building or structure in an approved manner.

**501.3.1.3 Sign shape.** The building information sign shall be a Maltese Cross as shown in Figure 501.3.1.3



**FIGURE 501.3.1.3**  
**BUILDING INFORMATION SIGN**

**501.3.1.4 Sign size and lettering.** The minimum size of the building information sign and lettering shall be in accordance with the following:

1. The width and height shall be 6 inches by 6 inches
2. The height or width of each Maltese cross wing area shall be 1 1/8 inches and have a stroke width of 1/4 inch;
3. The center of the Maltese cross a circle of oval 3 1/4 inches in diameter and has a stroke width of 1/4 inch;
4. All roman numerals and/or alphabetic designations, shall be 1 1/4 inch height and have a stroke width of 1/4 inch.

**501.3.2 Sign Designations.** Designations shall be made based upon the construction type, content, hazard, fire protection systems, life safety and occupancy. Where multiple designations occur within a classification Category, the designation used shall be based on the greatest potential risk.

**501.3.3 Construction type (TOP WING).** The construction types shall be designated by assigning the appropriate Roman numeral, and letter, placed inside the top wing of the Maltese cross. The hourly rating provided is for the structural framing in accordance with Table 601 of the *International Building Code*.

<b>Construction Type</b>	<b>Hourly Rating</b>
IA - Non-Combustible Construction -	3 Hour Rating
IB - Non-Combustible Construction -	2 Hour Rating
IIA - Non-Combustible Construction -	1 Hour Rating
IIB - Non-Combustible Construction -	0 Hour Rating
IIIA - Non-Combustible/Combustible Construction -	1 Hour Rating
IIIB - Non-Combustible/Combustible Construction -	0 Hour Rating
IV - Heavy Timber Construction -	
VA - Combustible Construction -	1 Hour Rating
VB - Combustible Construction -	0 Hour Rating

**501.3.4 Hazards of content (LEFT WING).** The hazards of building contents shall be designated by one of the following classifications as defined in NFPA 13 and the appropriate designation shall be placed inside the left wing of the Maltese cross:

- 1 - Light Hazard
- 2 - Moderate Hazard
- 3 - High Hazard

**501.3.5 Fire protection systems (RIGHT WING).** The fire protection systems shall be designated by determining its level of protection and assigning the appropriate designation to the right wing of the Maltese cross. Where multiple systems are provided, all shall be listed:

AS – Automated Fire Sprinkler System installed throughout;  
DS – Dry Sprinkler System and designated areas  
PAS – Pre-Action Sprinkler System and designated area  
PS – Partial Automatic Fire Sprinkler System, and designate floor;  
CES – Chemical Extinguishing System and designated area;  
CS – Combination Sprinkler and Standpipe System;  
S – Standpipe System;  
NS – No system installed

**501.3.6 Occupancy type (BOTTOM WING).** The occupancy of a structure can accompany particular hazards related to the stated occupancy. Identifying the occupancy of a structure will allow fire fighters to make informed tactical assumptions and decisions. Occupancies shall be designated in accordance with the occupancy classification found in Section 302.1 of the *International Building Code* and the corresponding designation shall be placed in the bottom wing of the Maltese cross.

A – Assembly  
B – Business  
E – Educational  
F – Factory or Industrial  
H – High Hazard  
I – Institutional  
M – Mercantile  
R – Residential  
S – Storage

**501.3.7.1 Tactical Considerations (CENTER CIRCLE).** The Center Circle shall always contain the name of the local Fire Service. When fire fighters conduct pre-plan operations, unique situations shall be identified and placed within the center section of the sign to allow the initial response fire fighters to identify that there are special considerations for this occupancy. Special consideration designations include, but are not limited to:

1. Impact resistant drywall
2. Impact resistant glass;
3. All types of roof and floor structural members including but not limited to post tension concrete, bar joists, joists, rafters, trusses, cold-formed galvanized steel, I-joists and I-beams;
4. Hazardous materials, explosives, chemicals, plastics, etc.;

**501.3.8 Sign classification maintenance.** Sign classification maintenance shall comply with each of the following:

1. Fire departments in the jurisdiction shall define the designations to be placed within the sign.
2. Fire departments in the jurisdiction shall conduct annual inspections to verify compliance with this section of the code and shall notify the owner, or the owner's agent, of any required updates to the sign in accordance with fire department designations and the owner, or the owner's agent, shall comply within thirty (30) days.
3. The owner of a building shall be responsible for the maintenance and updates to the sign in accordance to fire department designations.
4. The owner of a building shall notify the fire department of any changes that possibly effect the classifications, of the system, within thirty (30) days of the changes and the Fire Department shall conduct an inspection.
5. The owner of a building shall change the effected classification posted on the sign within thirty (30) days of the changes.

**501.3.9 Training.** Jurisdictions shall train all fire department personnel on Sections 501.3 through 501.3.8.

**Commenter's Reason:** This Building Information Sign (BIS) is designed to be utilized in the crucial initial response of fire fighters to a structure fire. Similar to the Emergency Response Guidebook, published by the Department of Transportation, the BIS is designed to be utilized in the initial fifteen (15) to thirty (30) minutes of an incident. Fire fighters are trained to size up a situation as early as possible after notification. Outward appearances can be deceiving and the type of construction may not appear to be what it really is. This is becoming a more frequent occurrence with urban renewal. Having the BIS will allow responding companies to make an informed tactical decision. The responding company will be able to identify the type of construction, hazard level of the contents, structural framework, occupancy of the building and whether the building is protected with automatic suppression and the extent of the protection.

In the fire service there are many times we are dispatched to a location without an address. Placing this information electronically will not address those incidents. Once the fire company has located the building or structure, the company officer can relay the correct address to the Dispatching Center and exit the apparatus to begin an assessment and making tactical decisions. The company officer can not afford to wait until Dispatch sends an electronic form of the marker to the mobile computer. This sign will give that arriving officer information to begin his/her assessment.

Another instance where a BIS is valuable is with Mutual Aid. Mutual Aid companies do not always share Dispatching Centers therefore they would not have the ability to receive the electronic communication. Placing this sign in designated locations will allow arriving Mutual Aid companies to begin proper tactical assessments.

In Tactical Considerations, the BIS allows fire fighters to identify additional considerations and prepare for them. Just by seeing that there are additional considerations would give fire fighters pause to consider unique aspects of the situation. Are there special needs for the occupants? Is the interior constructed using impact resistant dry wall which will make wall breaching very difficult? Is there lexan glazing? These are examples of concerns that would cause a fire fighter to consider options at an incident. Does the building contain dimension lumber, trusses, I-joists, cold formed steel, etc. in the roof or floors? This can be identified and placed in the Tactical Considerations. The National Institute for Occupational Safety and Health released a report, 'Preventing Injuries and Deaths of Fire Fighters Due to Truss System Failures' recommends identifying structures by suggesting that building owners and managers "Consider placing building construction information outside the building. Include information about roof and floor type (presence of trusses, materials used), roof loads (heating, ventilation, and air conditioning (HVAC) units, displays), sprinkler systems, utilities, chemicals on site and contact numbers. Use and follow the proper building codes."

**Reason:** Buildings are developing "lockdown" plans in response to security threats. This proposal will add requirements to the IFC on lockdown plans, lockdown drills and lockdown operations, not only in schools, but in all buildings where a lockdown plan is desired.

The code does not require a lockdown plan, however if a plan is to be developed, the plan must maintain the integrity of the egress system to an acceptable level. These lockdown plans include procedures for locking occupants into individual rooms within the building, and typically do not consider the impact of lockdowns on fire safety. This proposal is intended to establish the conditions for lockdown plans so that they will not decrease the level of life safety in the event of fires.

Many facilities are adopting procedures that can significantly affect fire safety, such as using the fire alarm system to signal a security emergency, locking doors with devices that prevent egress, and chaining exit discharge doors from the inside to prevent occupants from leaving the building. It is important that plans for security threats do not include procedures that result in violations of life safety and actually increase the hazard to the occupants.

**Cost Impact:** The code change proposal will not increase the cost of construction.

**Committee Action:**

**Approved as Modified**

**Modify the proposal as follows:**

**404.3.3.1 Lockdown plan contents.** Lockdown plans shall be approved by the fire code official and shall include the following:

1. Initiation. The plan shall include instructions for reporting an emergency that requires a lockdown.
2. Accountability. The plan shall include accountability procedures for staff to report the presence or absence of occupants.
3. Recall. The plan shall include pre-arranged signal for returning to normal activity.
4. Communication and coordination. The plan shall include an approved means of two-way communication between a central location and each secured area.
5. ~~The plan shall be in accordance with the National Incident Management System and applicable state and federal laws or regulations.~~

**Committee Reason:** The proposal was approved because the committee felt that it is appropriate to provide a means for involving the fire code official in lockdown procedure planning that is currently being done but without fire service input. The modification recognizes that the NIMS is primarily a tool for emergency forces and deletes unclear language regarding other applicable laws. The committee also observed that the regulations could be improved by including the police and other interested and affected agencies and officials in the lockdown planning process. In addition, guidance should be provided on the "accountability procedures" and the "central location" in Sections 404.3.3.1(2) and 404.3.3.1(4), respectively, and providing applicable exceptions to compliance with other parts of the code in lieu of the new last sentence in Section 404.1.

**Assembly Action:**

**None**

*Individual Consideration Agenda*

**This item is on the agenda for individual consideration because public comments were submitted.**

*Public Comment 1:*

**Tom Lariviere, Fire Department, Madison, MS, representing Joint Fire Service Review Committee, requests Approval as Modified by this public comment.**

**Further modify proposal as follows:**

**404.1 General.** Fire safety, evacuation and lockdown plans and associated drills shall comply with the requirements of this section. ~~The plans shall not conflict with other sections of this code.~~

**402.1 Definition.** The following word and term shall, for the purposes of this chapter and as used elsewhere in this code, have the meaning shown herein.

**LOCKDOWN.** An emergency situation, in other than a Group I-3 occupancy, requiring that the occupants be sheltered and secured in place within a building when normal evacuation would put occupants at risk.

(Portions of proposal not shown remain unchanged)

**Commenter's Reason:** This item was approved by the Code Development Committee with instruction to the Joint Fire Service Review Committee to return with some enhancements.

Specifically, the 2<sup>nd</sup> sentence of 404.1 is deleted. If the Lockdown Plan is conflicting with the code, it should not be approved.

The definition of lockdown is revised to eliminate the inclusion of detention facilities.

All of the revisions as a result of floor testimony and as requested by the committee have been included so that the IFC can now more efficiently evaluate lockdown plans as they become more commonplace across the country.

*Public Comment 2:*

**Lawrence G. Perry, AIA, representing Building Owners and Managers Association (BOMA) International, requests Approval as Modified by this public comment.**

**Further modify proposal as follows:**

**404.1. General.** Fire safety, evacuation and lockdown plans and associated drills shall comply with the requirements of this section. ~~The plans shall not conflict with other sections of this code.~~

(Portions of proposal not shown remain unchanged)

**Commenter's Reason:** By their very nature, 'lockdown' plans will need to include measures that will 'conflict' with provisions in the IFC and other ICC codes.

Doors may need to be secured to prevent ingress and/or egress, lights may be turned off, HVAC may be shut down, etc. Prohibiting a lockdown plan from including what are determined to be essential actions defeats the purpose of developing a lockdown plan, which would likely lead to 'unofficial' lockdown plans being developed, defeating the purpose of this code change.

Eliminating the sentence prohibiting 'conflicts' with the code does not create a major loophole. The remainder of the proposal, specifically Section 404.3.3.1, requires that any lockdown plan be approved by the fire code official. Part of the development and approval of the plan can include measures for dealing with the code 'conflicts' that are determined to be necessary as part of the plan.

If deletion of the language prohibiting any conflict with the code is not deleted, the proposal should be disapproved, as a lockdown plan with such broad constraints would be useless.

Final Action: AS AM AMPC\_\_\_\_\_ D

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## **F67-07/08**

### **503.2.1, Appendix D103.1, D105.2**

#### ***Proposed Change as Submitted:***

**Proponent:** Edwin M. Berkel, CFI, Mehlville Fire Protection District, representing himself

#### **Revise as follows:**

**503.2.1 Dimensions.** Fire apparatus access roads shall have an unobstructed width of not less than 20 feet (6096 mm), exclusive of shoulders, except for approved security gates in accordance with Section 503.6, and an unobstructed vertical clearance of not less than 13 feet 6 inches (4115 mm).

**D103.1 Access road width with a hydrant.** Where a fire hydrant is located on a fire apparatus access road, the minimum road width shall be 26 feet (7925 mm), exclusive of shoulders. See Figure D103.1.

**D105.2 Width.** Fire apparatus access roads shall have a minimum unobstructed width of 26 feet (7925 mm), exclusive of shoulders, in the immediate vicinity of any building or portion of building more than 30 feet (9144 mm) in height.

**Reason:** The intent of the width requirements for fire apparatus access roads is that the all-weather surface capable of supporting the expected imposed loads of apparatus be applicable to the full 20 foot width of the road to provide space for fire apparatus to pass one another during fireground operations. The need to pass may occur when engines are parked for hydrant hookup or laying hose or when trucks are performing aerial ladder operations. Including adjacent road shoulders in the 20 foot width measurement could yield sub-standard and inadequate driving surfaces for apparatus. This proposal will make it clear that the shoulders are not to be included in the minimum fire apparatus access road width.

**Cost Impact:** The code change proposal will not increase the cost of construction.

#### **Committee Action:**

**Approved as Submitted**

**Committee Reason:** The committee agreed that the proponent's reason statement accurately and adequately substantiates the need for the change which will provide for full-width, properly surfaced fire apparatus access roads.

#### **Assembly Action:**

**None**

#### ***Individual Consideration Agenda***

**This item is on the agenda for individual consideration because a public comment was submitted.**

#### ***Public Comment:***

**Steve Orlowski, National Association of Home Builders, requests Disapproval.**

This Building Information Sign has brought many people together from various industries (the structural building component, steel & wood industries, building officials, fire service) to collaborate on a BIS system that is comprehensive and meets the need of the fire service for information that allows for a quicker building assessment on the fire ground. This addresses a key question that has been asked for quite some time -- "How do we provide building information to the fire service?". With this Building Information Sign we are providing the responding fire fighters crucial information at the most important time period. Officers will be able to make educated decisions based on the information provided in this sign or be prompted by the Tactical Considerations to request better information.

**Bibliography:**

1. NIOSH Alert – "Preventing Injuries and Deaths of Fire Fighters due to Truss System Failures" April 2005

Final Action: AS AM AMPC\_\_\_\_\_ D

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**F78-07/08**

**507.4 (New), 502.1 (New)**

*Proposed Change as Submitted:*

**Proponent:** Scott Poster, Fire Department, Los Angeles County, CA

**Add new text as follows:**

**507.4. Structures and outdoor storage underneath high-voltage transmission lines.** Structures and outdoor storage underneath high-voltage transmission lines shall comply with Section 507.4.1 and 507.4.2.

**507.4.1 Structures.** Structures shall not be constructed within the utility easement underneath high-voltage transmission lines.

**Exception:** Restrooms and unoccupied telecommunication structures of non-combustible construction less than 15 feet in height.

**507.4.2 Outdoor storage.** Outdoor storage within the utility easement underneath high-voltage transmission lines shall be limited to noncombustible material. Storage of hazardous materials including, but not limited to, flammable and combustible liquids is prohibited.

**Exception:** Combustible storage, including vehicles, is allowed provided that a plan indicating the storage configuration is submitted and approved.

**502.1 Definitions.** The following words and terms shall, for the purposes of this chapter and as used elsewhere in this code, have the meanings shown herein.

**HIGH-VOLTAGE TRANSMISSION LINE.** An electrical power transmission line operating at or above 66 kilovolts

**son:** Structure fires underneath high-voltage transmission lines could cause arcing and shock hazard. Firefighting operations involve the use of elevated aerial apparatus and other emergency equipment, personnel aboveground and hose streams that may come in close proximity to high-voltage transmission lines. According to nationally recognized utility companies, manual de-energization of lines may take minutes or longer to accomplish. A history of problems with structure fires underneath high voltage lines does not exist, due to the fact that utility companies have set internal policies that until recently allowed only low-intensity use of the property underneath high-voltage transmission lines.

From NIOSH Hazard ID #15, January 2002, Firefighters Exposed to Electrical Hazards During Wildland Fire Operations  
"Smoke can obscure energized electrical lines or equipment and can become charged and conduct electrical current."

From Bonneville Power Administration, Living and Working Safely Around High Voltage Power Lines

1, DOE/BP-1821, "Smoke and hot gases from a large fire can create a conductive path for electricity. When a fire is burning under a transmission line, electricity could arc from the conductor to the ground, endangering people and objects near the arc"

From SP-Ausnet, Corporate Communications Team, Melbourne, Victoria. "Excessive exposure to "electric fields" and "magnetic fields" is harmful to humans or animals. Powerlines are designed such that the electric and magnetic fields at ground level and at the edges of easements are kept within these standards. If one was to change the conditions on the ground under a high voltage line, such as a structure or raise the ground level, etc. then the persons in the vicinity of these higher levels are exposed to higher than normal electric and magnetic fields. It should be noted that the effect of these fields are proportional to the field strength as well as the duration of exposure."

The code change proposal will not increase the cost of construction.

**Action:**

**Approved as Modified**

Modify the proposal as follows:

**315.4 Storage underneath high-voltage transmission lines.** Storage located underneath high-voltage transmission lines shall be in accordance with Section 507.4.

(Portions of the proposal not shown remain unchanged)

**Committee Reason:** The proposal was approved because the committee felt that it will provide enhanced firefighter safety when working on incidents underneath high-voltage transmission lines. The modification provides a needed cross-reference to the provisions from a new section in the combustible storage section in Chapter 3.

**Assembly Action:**

None

### Individual Consideration Agenda

This item is on the agenda for individual consideration because a public comment was submitted.

*Public Comment:*

**Robert J. Davidson, Davidson Code Concepts, LLC, representing Plug Power, Inc., requests Approval as Modified by this public comment.**

Further modify proposal as follows:

**507.4.2 Outdoor storage.** Outdoor storage within the utility easement underneath high-voltage transmission lines shall be limited to noncombustible material. Storage of hazardous materials including, but not limited to, flammable and combustible liquids is prohibited.

**Exception:** Combustible storage, including vehicles, and fuel storage for back up power equipment servicing public utility equipment is allowed provided that a plan indicating the storage configuration is submitted and approved.

(Portions of proposal not shown remain unchanged)

**Commenter's Reason:** The restrictions the fire code committee added by their acceptance of F78-07/08 are a good addition to the code that will address a potential hazard to firefighters. However, as currently approved the new code language will conflict with a need to provide fuel for back up power supplies for critical public utility equipment installations. Some of this equipment involves telecommunications equipment that emergency services rely on for communication. The modification contained within this proposal is intended to address that issue.

Some equipment installations that are located upon the utility easement underneath high-voltage transmission lines, such as the telecommunication structures permitted by the exception to Section 507.4.1, require back up power supplies. Many of the back up power installations require liquid or gaseous fuel storage and the new code language currently accepted by the fire code committee would prohibit the fuel supply from being located on the utility easement.

This proposed modification of Section 507.4.2 would allow the fuel for back up power supplies to be located on the utility easement, however, it would limit the fuel to only that necessary for equipment servicing public utility equipment and subject to the approval of the fire code official allowing the fire service to maintain control over the installations.

Final Action: AS AM AMPC\_\_\_\_\_ D

**F84-07/08**  
**509.1 (IBC [F] 911.1)**

*Proposed Change as Submitted:*

**Proponent:** Ken Kraus, Fire Department, Los Angeles, CA

**Revise as follows:**

**509.1 (IBC [F] 911.1) (Supp) Features.** Where required by other sections of this code and in all buildings classified as high-rise buildings by the *International Building Code*, a fire command center for fire department operations shall be provided. The location and accessibility of the fire command center shall be approved by the fire department. The fire command center shall be separated from the remainder of the building by not less than a 1-hour fire barrier constructed in accordance with Section 706 of the *International Building Code* or horizontal assembly constructed in accordance with Section 711 of the *International Building Code*, or both. The room shall be a minimum of 96 250 square feet (9 23 m<sup>2</sup>) with a minimum dimension of 8 10 feet (2438 3048 mm). All features of the fire command center and all features required by this section to be contained therein shall be submitted for approval prior to installation. The fire command center shall comply with NFPA 72 and shall contain the following features:

**I103.2.4 Signal Booster requirements.** If used, signal boosters shall meet the following requirements:

1. All signal booster components shall be contained in a NEMA4 type water proof cabinet.
2. The battery system shall be contained in a NEMA4 type water proof cabinet.
3. The system shall include automatic alarming of malfunctions of the signal booster and battery system. Any resulting trouble alarm shall be automatically transmitted to an approved central station or proprietary supervising station as defined in NFPA 72 or, when approved by the fire code official, shall sound an audible signal at a constantly attended location.
4. Equipment shall have FCC Certification prior to installation.

**I103.2.5 Additional frequencies and change of frequencies.** The emergency responder radio coverage system shall be capable of modification or expansion in the event frequency changes are required by the FCC or additional frequencies are made available by the FCC.

**I103.3 Installation requirements.** The installation of the public safety radio coverage system shall be in accordance with Sections I103.3.1 through I103.3.5.

**I103.3.1 Approval prior to installation.** No amplification system capable of operating on frequencies licensed to any public safety agency by the FCC shall be installed without prior coordination and approval of the fire code official.

**I103.3.2 Permit required.** A construction permit as required by Section 105.7.11 shall be obtained prior to the installation of the emergency responder radio coverage system.

**I103.3.3 Minimum qualifications of personnel.** The minimum qualifications of the system designer and lead installation personnel shall include:

1. A Valid FCC issued General Radio Operators License, and
2. Certification of in-building system training issued by a nationally recognized organization, school or a certificate issued by the manufacturer of the equipment being installed.

The agency may waive these requirements upon successful demonstration of adequate skills and experience satisfactory to the fire code official.

**I103.3.4 Acceptance test procedure.** When an emergency responder radio coverage system is required, and upon completion of installation, the building owner shall have the radio system tested to ensure that two-way coverage on each floor of the building is a minimum of 90 percent. The test procedure shall be conducted as follows:

1. Each floor of the building shall be divided into a grid of 20 approximately equal areas.
2. The test shall be conducted using a calibrated portable radio of the latest brand and model used by the agency talking through the agency's radio communications system.
3. A maximum of two nonadjacent areas will be allowed to fail the test.
4. In the event that three of the areas fail the test, in order to be more statistically accurate, the floor may be divided into 40 equal areas. A maximum of four nonadjacent areas will be allowed to fail the test. If the system fails the 40-area test, the system shall be altered to meet the 90 percent coverage requirement.
5. A test location approximately in the center of each grid area will be selected for the test, then the radio will be enabled to verify two-way communications to and from the outside of the building through the public agency's radio communications system. Once the test location has been selected, that location shall represent the entire area. If the test fails in the selected test location, that grid area shall fail, and prospecting for a better spot within the grid area will not be allowed.
6. The gain values of all amplifiers shall be measured and the test measurement results shall be kept on file with the building owner so that the measurements can be verified during annual tests. In the event that the measurement results become lost, the building owner will be required to rerun the acceptance test to reestablish the gain values.
7. As part of the installation a spectrum analyzer or other suitable test equipment shall be utilized to insure spurious oscillations are not being generated by the subject signal booster. This test will be conducted at time of installation and subsequent annual inspections.

**I103.3.5 FCC compliance.** The emergency responder radio coverage system installation and components shall also comply with all applicable Federal regulations, including but not limited to, Federal Communications Rules (47 CFR 90.219).

APPENDIX I  
EMERGENCY RESPONDER RADIO COVERAGE

SECTION I103  
TECHNICAL REQUIREMENTS

~~I103.1 Radio signal strength. The building shall be considered to have acceptable emergency responder radio coverage when signal strength measurements in 90 percent of all areas on each floor of the building meet the signal strength requirements in Sections I103.1.1 and I103.1.2.~~

~~I103.1.1 Minimum signal strength into the building. A minimum signal strength of 95 dBm shall be receivable within the building.~~

~~I103.1.2 Minimum signal strength out of the building. A minimum signal strength of 100 dBm shall be received by the agency's radio system when transmitted from within the building.~~

(Renumber subsequent sections.)

(Portions of Appendix I of the proposal not shown remain unchanged.)

**Commenter's Reason:** The CTC also proposed a code change to address repeaters in F171 – 07/08. The CTC prefers F87 and has worked with the proponent in developing a public comment to clarify the provisions for new and existing buildings.

**511.1:** This section has been clarified to note that the existing coverage levels at the building (not in the building) need not be upgraded as a result of the need for coverage in the building. The purpose of the radio coverage in the building is to take the existing signal outside the building and amplify it. The exceptions provide an option for wired systems as an alternative and also if it is determined by the fire code official that emergency coverage is not needed, then it need not be provided. Obviously, both of these exceptions will require that the code official be consulted by the design professional.

There are two reasons for leaving an exception for the wired systems. One is because some fire service representatives have asked for the option to be there so they can make the decision whether or not to deal with the radio repeater system. Note that it is not automatically available, only if approved, so in your jurisdiction you won't have to approve it. The other reason for the wired option is because there are situations where you cannot solve the problem with radio repeater technology because the space is designed to prevent any radio waves from getting in or out, (lead shielding for example), in those cases the ability will exist for the local code officials to approve, (actually to require as well), a wired system if they agree it is the proper method for that space.

**511.2:** The provisions for signal strength are viewed as critical and need to be uniformly applied. As such, they have been relocated from the proposed appendix and incorporated into the body of the code.

**511.3:** There is clearly a need for existing buildings to be provided with coverage. However, requiring an existing wired system to be updated within 18 months when the system is operational or can be repaired is viewed as excessive. Further, an 18 month threshold is rather arbitrary and really should be left up to the adopting authority to decide the time frame for compliance for existing buildings.

**907.2.12.2:** This comment is intended to clarify where wired systems are provided and approved, it can be used in lieu of a radio system and provides the technical language concerning how the system is to be installed.

Code issues are assigned to the CTC by the ICC Board as "areas of study". Information on the CTC, including: meeting agendas; minutes; reports; resource documents; presentations; and all other materials developed in conjunction with the CTC effort can be downloaded from the following website: <http://www.iccsafe.org/cs/cc/ctc/index.html>. Since its inception in April/2005, the CTC has held fifteen meetings - all open to the public. This public comment is a result of the CTC's investigation of the area of study entitled "NIST World Trade Center Recommendations". The CTC web page for this area of study is: <http://www.iccsafe.org/cs/cc/ctc/WTC.html>

*Public Comment 2:*

**Tom Lariviere, Fire Department, Madison, MS, representing Joint Fire Service Review Committee, requests Approval as Modified by this public comment.**

**Modify proposal as follows:**

SECTION 511  
EMERGENCY RESPONDER RADIO COVERAGE

**511.1 Emergency responder radio coverage in new buildings.** ~~All new buildings shall have approved radio coverage for emergency responders within the building based upon the existing coverage levels of the public safety communication systems of the jurisdiction at the exterior of the building. This section shall not require improvement of the existing public safety communication systems.~~

**Exceptions:**

1. Where approved by the building code official and the fire code official, a wired communication system shall be permitted to be installed or maintained in lieu of an approved radio coverage system.
2. Where it is determined by the fire code official that the radio coverage system is not needed.

**511.2 Emergency responder radio coverage in existing buildings.** Existing buildings that do not have approved radio coverage for emergency responders within the building shall be equipped with such coverage according to one of the following: ~~within 18 months of receiving notice of such deficiency from the fire code official.~~

1. Whenever existing wired communication system cannot be repaired or is being replaced, or where not approved in accordance with Section 511.1 Exception 1.
2. Within a time frame established by the adopting authority.

**511.3 Technical Requirements.** Systems, components, and equipment required to provide emergency responder radio coverage system shall comply with Sections 511.3.1 through 511.3.2.5.

**511.3.1 Radio signal strength.** The building shall be considered to have acceptable emergency responder radio coverage when signal strength measurements in 95 percent of all areas on each floor of the building meet the signal strength requirements in Sections 511.3.1.1 and 511.3.1.2.

**511.3.1.1 Minimum signal strength into the building.** A minimum signal strength of -95 dBm shall be receivable within the building.

**511.3.1.2 Minimum signal strength out of the building.** A minimum signal strength of -100 dBm shall be received by the agency's radio system when transmitted from within the building.

**511.3.2 System design.** The emergency responder radio coverage system shall be designed in accordance with Sections 511.3.2.1 through 511.3.2.5.

**511.3.2.1 Amplification Systems Allowed.** Buildings and structures which cannot support the required level of radio coverage shall be equipped with a radiating cable system, a distributed antenna system with FCC certified signal boosters, or other system approved by the fire code official in order to achieve the required adequate radio coverage.

**511.3.2.2 Technical criteria.** The fire code official shall maintain a document providing the specific technical information and requirements for the emergency responder radio coverage system. This document shall contain, but not be limited to, the various frequencies required, the location of radio sites, effective radiated power of radio sites, and other supporting technical information.

**511.3.2.3 Secondary power.** Emergency responder radio coverage systems shall be provided with an approved emergency power supply. The emergency power supply shall be capable of operating the emergency responder radio coverage system for a period of at least twelve hours. When primary power is lost, the power supply to the emergency responder radio coverage system shall automatically transfer to the emergency power supply.

**511.3.2.4 Signal Booster requirements.** If used, signal boosters shall meet the following requirements:

1. All signal booster components shall be contained in a NEMA4 type water proof cabinet.
2. Battery systems used for the emergency power source shall be contained in a NEMA4 type water proof cabinet.
3. The system shall include automatic alarming of malfunctions of the signal booster and batteries used as the emergency power supply. Trouble alarms shall be automatically transmitted to an approved central station or proprietary supervising station, or when approved by the fire code official, shall sound an audible signal at a constantly attended location.
4. Equipment shall have FCC Certification prior to installation.

**511.3.2.5 Additional frequencies and change of frequencies.** The emergency responder radio coverage system shall be capable of modification or expansion in the event frequency changes are required by the FCC or additional frequencies are made available by the FCC.

**511.4 Installation requirements.** The installation of the public safety radio coverage system shall be in accordance with Sections 511.4.1 through 511.4.5.

**511.4.1 Approval prior to installation.** No amplification system capable of operating on frequencies licensed to any public safety agency by the FCC shall be installed without prior coordination and approval of the fire code official.

**511.4.2 Permit required.** A construction permit as required by Section 105.7.11 shall be obtained prior to the installation of the emergency responder radio coverage system.

**511.4.3 Minimum qualifications of personnel.** The minimum qualifications of the system designer and lead installation personnel shall include:

1. A Valid FCC issued General Radio Operators License, and
2. Certification of in-building system training issued by a nationally recognized organization, school or a certificate issued by the manufacturer of the equipment being installed.

The agency may waive these requirements upon successful demonstration of adequate skills and experience satisfactory to the fire code official.

**511.4.4 Acceptance test procedure.** When an emergency responder radio coverage system is required, and upon completion of installation, the building owner shall have the radio system tested to ensure that two-way coverage on each floor of the building is a minimum of 90 percent. The test procedure shall be conducted as follows:

1. Each floor of the building shall be divided into a grid of 20 approximately equal areas.
2. The test shall be conducted using a calibrated portable radio of the latest brand and model used by the agency talking through the agency's radio communications system.
3. A maximum of two nonadjacent areas will be allowed to fail the test.
4. In the event that three of the areas fail the test, in order to be more statistically accurate, the floor may be divided into 40 equal areas. A maximum of four nonadjacent areas will be allowed to fail the test. If the system fails the 40-area test, the system shall be altered to meet the 90 percent coverage requirement.
5. A test location approximately in the center of each grid area will be selected for the test, then the radio will be enabled to verify two-way communications to and from the outside of the building through the public agency's radio communications system. Once the test location has been selected, that location shall represent the entire area. If the test fails in the selected test location, that grid area shall fail, and prospecting for a better spot within the grid area will not be allowed.
6. The gain values of all amplifiers shall be measured and the test measurement results shall be kept on file with the building owner so that the measurements can be verified during annual tests. In the event that the measurement results become lost, the building owner will be required to rerun the acceptance test to reestablish the gain values.

7. As part of the installation a spectrum analyzer or other suitable test equipment shall be utilized to insure spurious oscillations are not being generated by the subject signal booster. This test will be conducted at time of installation and subsequent annual inspections.

**1403.3.5 511.4.5 FCC compliance.** The emergency responder radio coverage system installation and components shall also comply with all applicable Federal regulations, including but not limited to, Federal Communications Rules (47 CFR 90.219).

**1403.4 511.5 Maintenance.** The emergency responder radio coverage system shall be maintained operational at all times in accordance with Sections 511.5.1 through 511.5.3.

**1403.4.3 511.5.1 Testing and proof of compliance.** The emergency responder radio coverage system shall be inspected and tested annually or whenever structural changes occur including additions or remodels that could materially change the original field performance tests. Testing shall consist of the following:

1. In-building coverage test as described in Section 1403.4.3 511.4.4.
2. Signal boosters shall be tested to ensure that the gain is the same as it was upon initial installation and acceptance.
3. Backup batteries and power supplies shall be tested under load of a period of one hour to verify that they will properly operate during an actual power outage. If within the one hour test period the battery exhibits symptoms of failure, the test shall be extended for additional one hour periods until the integrity of the battery can be determined.
4. All other active components shall be checked to verify operation within the manufacturer's specifications.
5. At the conclusion of the testing a report shall be submitted to the fire code official which shall verify compliance with Section 1403.3.4 511.4.4.

**1403.4.4 511.5.2 Additional frequencies.** The building owner shall modify or expand the emergency responder radio coverage system at their expense in the event frequency changes are required by the FCC or additional frequencies are made available by the FCC. Prior approval of a public safety radio coverage system on previous frequencies does not exempt this section.

**1403.4.5 511.5.3 Field testing.** Agency personnel shall have the right to enter onto the property at any reasonable time to conduct field-testing to verify the required level of radio coverage.

**1402.4 502.1 Definitions.** For the purpose of this appendix, certain terms are defined as follows: The following words and terms shall, for the purposes of this chapter and as used elsewhere in this code, have the meanings shown herein.

**AGENCY.** Any emergency responder department within the jurisdiction that utilizes radio frequencies for communication. This could include, but not be limited to, various public safety agencies such as fire department, emergency medical services and law enforcement.

**907.2.12.2 (IBC [F] 907.2.12.2) (Supp) Fire department communication system.** ~~An approved emergency responder radio coverage system shall be provided for fire department use. It shall operate between a fire command center complying with Section 509 and elevators, elevator lobbies, emergency and standby power rooms, fire pump rooms, areas of refuge and inside enclosed exit stairways. Where a wired communications system is approved in lieu of an emergency responder radio coverage system in accordance with section 511, the wired fire department communications systems shall be designed and installed in accordance with NFPA 72 and shall operate between a fire command center complying with Section 509, elevators, elevator lobbies, emergency and standby power rooms, fire pump rooms, areas of refuge and inside enclosed exit stairways. The fire department communication device shall be provided at each floor level within the enclosed exit stairway.~~

**1401.1 Permit 105.7.11 Radio coverage system.** A construction permit is required for installation of or modification to emergency responder radio coverage systems and related equipment. Maintenance performed in accordance with this code is not considered a modification and does not require a permit.

(Renumber subsequent sections)

**509.1 (IBC [F] 911.1) (Supp) Features.** Where required by other sections of this code and in all buildings classified as high-rise buildings by the *International Building Code*, a fire command center for fire department operations shall be provided. The location and accessibility of the fire command center shall be approved by the fire department. The fire command center shall be separated from the remainder of the building by not less than a 1-hour fire barrier constructed in accordance with Section 706 of the *International Building Code* or horizontal assembly constructed in accordance with Section 711 of the *International Building Code*, or both. The room shall be a minimum of 96 square feet (9 m<sup>2</sup>) with a minimum dimension of 8 feet (2438 mm). A layout of the fire command center and all features required by this section to be contained therein shall be submitted for approval prior to installation. The fire command center shall comply with NFPA 72 and shall contain the following features:

1. The emergency voice/alarm communication system unit.
2. The fire department communications system, where a fire department communications system is provided.
3. through 17. (No change to current text)

Delete entire Appendix I as follows:

## **APPENDIX I EMERGENCY RESPONDER RADIO COVERAGE**

**Commenter's Reason:** This Public Comment has taken the work completed by the CTC work group and included further modifications. The further revision is a result of the comments from the Code Development Committee when they provided direction to relocate the Appendix into the body of the code. Therefore, the difference between this Public Comment and the Public Comment from the CTC work group is that Appendix I is deleted and the requirements are placed into Section 511.

As the appendix was relocated into the code, some minor clarifications occurred. Based on the Public Comment from the CTC work group, the following revisions are made:

1. 511.5 – The two sections from the Appendix I103.4 and I103.4.1 have been combined into one section for simplicity.
2. 907.2.12.2 – the term “emergency responder” is added since the correct term is “emergency responder radio coverage system”. This is editorial.
3. 105.7.11 – this permit requirement is added to Chapter 1. Since the appendix is deleted, the permit requirement also needs to be located within the code. This is editorial.
4. Appendix i – The entire appendix is relocated into the code. This was a request of the Code Development Committee and can be seen in their Reason Statement in Report on Hearings.
5. IFC 509.1 (IBC 911.1) – this section is revised to address the fact that a fire command center may not have a fire department communications system, when emergency responder radio coverage is provided.

*Public Comment 3:*

**Tim Pate, City & County of Broomfield Building Department, representing Colorado Chapter of ICC, requests Approval as Modified by this public comment.**

**Modify proposal as follows:**

**511.1 Emergency responder radio coverage in new high rise buildings.** All new high rise buildings as defined in Section 403.1 of the International Building Code buildings shall have approved radio coverage for emergency responders within the building.

**511.2 Emergency responder radio coverage in existing high rise buildings.** Existing high rise buildings as defined in Section 403.1 of the International Building Code buildings that do not have approved radio coverage for emergency responders within the building shall be equipped with such coverage within 18 months of receiving notice of such deficiency from the fire code official.

#### **APPENDIX I EMERGENCY RESPONDER RADIO COVERAGE FOR HIGH RISE BUILDINGS**

**I101 Scope.** Systems, components, and equipment required to provide emergency responder radio coverage in high rise buildings shall be in accordance with this appendix.

(Portions of proposal not shown remain unchanged)

**Commenter's Reason:** The proponent of this revision states “Large buildings have historically provided barriers to radio communications within them. This is the reason high rise buildings are required to install hard wired, two-way communications systems. The typical system has phone jacks strategically located throughout the building (in stairways, elevator lobbies, and inside elevators), with hand sets available to emergency responders in the lobby or the fire control room. However, problems with this solution include: ...”

Sections 511.1 and 511.2 specify that radio coverage is required for all buildings. These sections do not require installation of an Emergency Responder radio communication system (ERRCS). The proposed G53 requires installation of an ERRCS in high rise buildings. Requirements of ERRCS noted in Section 403.7 in G53 are in lieu of the two way communication system which has been required in high rise buildings for many years. Sections 511.1 and 511.2 are not correlated with the revisions proposed under G53. The proposed Sections 511.1 and 511.2 could be misconstrued where requirements could be applied to any building regardless of size, materials used in construction of the building, number of stories and similar. For example, a three tier open parking garage would otherwise be subject to requirements of the proposed Section 511.

*Public Comment 4:*

**Lawrence G. Perry, AIA representing Building Owners and Managers Association (BOMA) International, requests Approval as Modified by this public comment.**

**Modify proposal as follows:**

**511.2 Emergency responder radio coverage in existing buildings.** Existing buildings that do not have approved radio coverage for emergency responders shall be provided with approved radio coverage to the extent, and within a time frame, established by the adopting authority. ~~within the building shall be provided with such coverage within 18 months of receiving notice of such deficiency from the fire code official.~~

(Portions of proposal not shown remain unchanged)

**Commenter's Reason:** During the lengthy consideration of this code change proposal after the Palm Springs code development hearings, by both a task group and then the full ICC Code Technology Committee, it became clear that the potential impact on existing buildings of this change will be significant. However, without a mechanism in place within a jurisdiction to determine which buildings need to have improved coverage, and how existing buildings would be assessed to determine whether they already have adequate coverage, any attempt to specifically establish provisions for existing buildings is flawed. In many jurisdictions, any retroactive code requirement will simply be deleted from the code.

The original code change proposal simply required that every existing building be brought into compliance with the new radio coverage provisions within 18 months. However, the clock did not begin ticking until one was notified that their building did not currently have adequate coverage. This missing link is a significant flaw. However, proposing that somehow every single building in a jurisdiction be tested to determine whether additional measures would be needed is an even more significant flaw. The separately-submitted CTC public comment seeks to limit the application for existing buildings to high-rise buildings, underground buildings, and large assembly facilities. The CTC comment still lacks criteria for determining the existing coverage provided within these existing buildings, and leaves the time frame for compliance to the adopting authority.

This comment seeks to further the approach used in the CTC comment (which requires the adopting authority to establish the time frame for compliance), and simply provides a 'heads-up' to adopting jurisdictions that if they wish to apply these provisions to existing buildings, they will need to determine which buildings, or which types of buildings, are to be covered, and what the appropriate time frame for compliance should be.

*Public Comment 5:*

**Tim Pate, City & County of Broomfield Building Department, representing Colorado Chapter of ICC, requests Disapproval.**

**Commenter's Reason:**

1. There are no standards for installation of the proposed Emergency Responder Radio Communication System (ERRCS). For systems such as: fire alarm and detection, sprinkler, standpipe and similar, NFPA Standards outlines how these systems have to be installed. When these systems are installed per the referenced standards, they are accepted as compliant systems. However, the proposed ERRCS does not have any provisions regarding installation of this system. After installation, the ERRCS has to be tested to verify that the test criteria are met. If installed systems do not pass the test criteria, they have to be modified and re-tested until final acceptance of the system. This is not an accepted industry procedure.
2. Installation of the ERRCS in ALL new and existing buildings is not reasonable and would be onerous.
3. Justification presented for installation of this system is for the Large and High Rise buildings. However the proposed Sections 511.1 and 511.2 mandate installation of these systems in ALL buildings.
4. There are no code provisions except for the proposed language in G-53 which would require installation of this system in a high rise building.
5. The term "Emergency Responder Radio Coverage" could be interpreted as any emergency responder and any municipal agency with a radio system might mandate installation of this system.

*Public Comment 6:*

**Lawrence G. Perry, AIA, representing Building Owners and Managers Association (BOMA) International, requests Disapproval.**

Commenter's Reason: The Code Development Committee Reason statement for approval of this code change provides excellent rationale for Disapproval of this change. "The committee indicated, however, that there are substantial issues which need to be resolved, including:

- applicability to "all" buildings would be unreasonable;
- the application to existing buildings would be onerous;
- there is no exception for single family residences;
- deleting the fire department communications system would eliminate a useful backup system..."

**All Buildings.** The proposal as written applies to ALL buildings. Regardless of how many persons stand up to testify that 'well, golly, we'd never require EVERY building to have to do an assessment or to install equipment', if it is in the code, that is the requirement, and it introduces unreasonable requirements into the code. The scope of the proposal needs to be significantly revised in order to clearly state: which types of buildings are required to be assessed to determine if equipment needs to be installed, who is responsible for undertaking the assessment, and what criteria must be used to determine if equipment needs to be installed.

**Existing Buildings.** As written, the proposal essentially abandons the hard-wired communication system required in high-rise buildings under the current code. This is an unreasonable approach, and will likely meet with strong opposition in many jurisdictions where large numbers of buildings have these systems installed. Additionally, as written, EVERY existing building in a jurisdiction is covered by this proposal, and would be required at some point to do something. What, and when, is unclear, which makes for unacceptable code requirements. The existing building section would require upgrades within 18 months of being notified of a deficiency by the fire code official, but the proposal provides no mechanism for the jurisdiction to make this determination. This will lead to widely-varying application, with some jurisdictions assuming all existing buildings are OK until they find a problem during a response, and some jurisdictions assuming all existing buildings must assess their current coverage and 'prove' that upgrades are not required.

The extent to which buildings need to provide equipment to ensure adequate emergency responder radio coverage depends partly on the building, partly on the surroundings (which may change over time as additional buildings go up or come down), and partly on the infrastructure that the local jurisdiction provides. This proposal as written passes the entire obligation to the owners of EVERY building in a jurisdiction. As proposed, there will be enormous costs for buildings to determine whether they have adequate coverage, or enormous costs for the local emergency responders to assess every building in the jurisdiction. Even larger are the costs involved for those buildings that would need to provide additional equipment to ensure adequate coverage, regardless of the quality of the coverage provided in the area. As written, a jurisdiction need not ever spend another cent to upgrade any part of their system, as the proposal passes the entire burden onto the building stock of the jurisdiction. Historically, there has been a reluctance by the fire service to rely on equipment that they themselves do not maintain (hose lines in buildings is one example).

The lengthy technical provisions proposed for the appendix are inappropriate. If the technical provisions are adequately developed, they should be contained in the body of the code or in a referenced standard.

*Public Comment 7:*

**Russ Wayman, San Carlos, CA, representing himself, requests Disapproval.**

**Commenter's Reason:**

1. Installation of this system in ALL new and existing buildings is not reasonable and is onerous.
2. The industry has not developed a Standard for installation of the Emergency Responder Radio Communication System. After installation of this system has been completed, this system has to be tested to verify that the test criteria are met. There are no assurances that multiple reinstallations or upgrades would not be required after the initial installation.
3. The term "Emergency Responder Radio Coverage" could be interpreted as any emergency responder and any municipal agency with a radio system might mandate installation of this system.

Final Action:      AS              AM              AMPC\_\_\_\_              D

## **Virginia Uniform Statewide Building Code Amendments for In-Building Emergency Communications**

**EMERGENCY COMMUNICATION EQUIPMENT.** Emergency communication equipment includes, but is not limited to, two-way radio communications, signal booster, bi-directional amplifiers, radiating cable systems or internal multiple antenna, or a combination of the foregoing.

**EMERGENCY PUBLIC SAFETY PERSONNEL.** Emergency public safety personnel includes firefighters, emergency medical personnel, law-enforcement officers and other emergency public safety personnel routinely called upon to provide emergency assistance to members of the public in a wide variety of emergency situations, including, but not limited to, fires, medical emergencies, violent crimes and terrorist attacks.

### **SECTION 913 IN-BUILDING EMERGENCY COMMUNICATIONS COVERAGE**

**913.1 General.** In-building emergency communication equipment to allow emergency public safety personnel to send and receive emergency communications shall be provided in new buildings and structures in accordance with this section.

#### **Exceptions:**

1. Buildings of Use Groups A-5, I-4, within dwelling units of R-2, R-3, R-4, R-5, and U.
2. Buildings of Type IV and V construction without basements.
3. Above grade single story buildings of less than 20,000 square feet.
4. Buildings or leased spaces occupied by federal, state, or local governments, or the contractors thereof, with security requirements where the building official has approved an alternative method to provide emergency communication equipment for emergency public safety personnel.
5. Where the owner provides technological documentation from a qualified individual that the structure or portion thereof does not impede emergency communication signals.

**913.2 Where required.** For localities utilizing public safety wireless communications, new buildings and structures shall be equipped throughout with dedicated infrastructure to accommodate and perpetuate continuous emergency communication.

**913.2.1 Installation.** Radiating cable systems, such as coaxial cable or equivalent shall be installed in dedicated conduits, raceways, plenums, attics, or roofs, compatible for these specific installations as well as other applicable provisions of this code.

**913.2.2 Operations.** The locality will assume all responsibilities for the installation and maintenance of additional emergency communication equipment. To allow the locality access to and the ability to operate such equipment, sufficient space within the building shall be provided.

**913.2.3 Inspection.** In accordance with Section 113.3, all installations shall be inspected prior to concealment.

**913.3 Acceptance test.** Upon completion of installation, after providing reasonable notice to the owner or their representative, emergency public safety personnel shall have the right during normal business hours, or other mutually agreed upon time, to enter onto the property to conduct field tests to verify that the required level of radio coverage is present at no cost to the owner. Any noted deficiencies shall be provided in an inspection report to the owner to the owner or the owner's representative.

## **Virginia Statewide Fire Prevention Code Amendments for In-Building Emergency Communications**

### **SECTION 511**

#### **MAINTENANCE OF IN-BUILDING EMERGENCY COMMUNICATION EQUIPMENT**

**511.1 General.** In-building emergency communication equipment shall be maintained in accordance with USBC and the provisions of this section.

**511.2 Additional in-building emergency communications installations.** If it is determined by the locality that increased amplification of their emergency communication system is needed, the building owner shall allow the locality access as well as provide appropriate space within the building to install and maintain necessary additional communication equipment by the locality. If the building owner denies the locality access or appropriate space, or both, the building owner shall be responsible for the installation and maintenance of these additional systems.

**511.3 Field tests.** After providing reasonable notice to the owner or their representative, the fire official, police chief, or their agents, shall have the right during normal business hours, or other mutually agreed upon time, to enter onto the property to conduct field tests to verify that the required level of radio coverage is present at no cost to the owner.

**Reason:** The addition of this language provides for clarity to separate the issue of the construction of new floor openings in existing buildings from the need to enclose existing floor openings in existing buildings, which is addressed by Section 704 Floor Openings and Shafts. The current language has had numerous questions if new construction for the enclosure of an existing floor can comply with the provisions of Section 704 or if they must comply with the requirements of the IBC. The proposed language will clarify the intent of the code

**Cost Impact:** The code change proposal will not increase the cost of construction.

**Committee Action:**

**Disapproved**

**Committee Reason:** The proposal was disapproved because the committee felt that the current text "New construction..." would include new floor openings in existing buildings, making the proposal redundant.

**Assembly Action:**

**None**

### *Individual Consideration Agenda*

**This item is on the agenda for individual consideration because a public comment was submitted.**

*Public Comment:*

**Wayne R. Jewell, Chair, Hazard Abatement in Existing Buildings Committee, requests Approval as Modified by this public comment.**

**Modify proposal as follows:**

**701.1 Scope.** The provisions of this chapter shall specify the requirements for and the maintenance of fire-resistance-rated construction and requirements for enclosing floor openings and shafts in existing buildings. ~~New construction buildings or and~~ new floor openings in existing buildings shall comply with the *International Building Code*.

**Commenter's Reason:** In its disapproval, the committee expressed concern that the proposal to specifically call out that new floor openings in existing buildings are required to comply with the IBC would be redundant. This is not the case because ICC staff has received a substantial number of calls for assistance on exactly this question. Without approval of the proposal it will remain unclear that the term 'new construction' applies not only to new buildings, but to the creation of new openings during the course of alterations to existing buildings. In order to remove any confusion, it is proposed to modify the language that was originally proposed.

Final Action:      AS              AM              AMPC\_\_\_\_\_              D

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## **F105-07/08**

### **703.1, 107.2**

*Proposed Change as Submitted:*

**Proponent:** John C. Dean, National Association of State Fire Marshals (NASFM)

**Revise as follows:**

**703.1 Maintenance.** The required fire-resistance rating of fire-resistance-rated construction (including walls, firestops, shaft enclosures, partitions, smoke barriers, floors, fire-resistive coatings and sprayed fire-resistant materials applied to structural members and fire-resistant joint systems) shall be maintained. Such elements shall be visually inspected annually properly repaired, restored or replaced when damaged, altered, breached or penetrated. Openings made therein for the passage of pipes, electrical conduit, wires, ducts, air transfer openings and holes made for any reason shall be protected with approved methods capable of resisting the passage of smoke and fire. Openings through fire-resistance-rated assemblies shall be protected by self- or automatic-closing doors of approved construction meeting the fire protection requirements for the assembly.

**107.2 Inspection, testing and operation.** Passive fire systems and equipment requiring periodic testing or operation to ensure maintenance shall be inspected, tested or operated as specified in this code.

**Reason:** Currently there is no requirement for fire-resistance-rated construction to be inspected. In many areas around the country there is no formal, organized inspection program in place and as such countless buildings go without ongoing inspections. The requirement to maintain and repair suggests that this has to occur if a situation is found to exist. Even in regulated occupancies, problems exist with various coatings and spray applied fire-resistant materials<sup>1</sup>. Without any requirement to inspect these elements, conditions could exist for years before being noticed and repaired. This creates a false sense of security and puts building occupants at risk. The code has been formulated to require certain fire resistive features. It only stands to reason that these features should be periodically inspected to insure that they are, and remain, compliant for the life of the building.

<sup>1</sup> Findings from the *Initial Report of the Partnership for Safer Buildings*. The National Association of State Fire Marshals. March 2003. [http://www.firemarshals.org/mission/catastrophic/initial\\_report.asp](http://www.firemarshals.org/mission/catastrophic/initial_report.asp).

**Cost Impact:** The code change proposal will increase the cost of construction.

**Committee Action:**

**Approved as Modified**

**Modify the proposal as follows:**

**703.1 Maintenance.** The required fire-resistance rating of fire-resistance-rated construction (including walls, firestops, shaft enclosures, partitions, smoke barriers, floors, fire-resistive coatings and sprayed fire-resistant materials applied to structural members and fire-resistant joint systems) shall be maintained. Such elements shall be visually inspected by the owner annually, and properly repaired, restored or replaced when damaged, altered, breached or penetrated. Where concealed, such elements shall not be required to be visually inspected by the owner unless the concealed space is accessible by the removal or movement of a panel, access door, ceiling tile or similar movable entry to the space. Openings made therein for the passage of pipes, electrical conduit, wires, ducts, air transfer openings and holes made for any reason shall be protected with approved methods capable of resisting the passage of smoke and fire. Openings through fire-resistance-rated assemblies shall be protected by self- or automatic-closing doors of approved construction meeting the fire protection requirements for the assembly.

**107.2 Inspection, Testing and operation.** ~~Passive fire systems and e~~ Equipment requiring periodic testing or operation to ensure maintenance shall be inspected, tested or operated as specified in this code.

**Committee Reason:** The proposal was approved because the committee felt that it provides for the periodic inspection of fire-resistance-rated construction. The modification clarifies who is to conduct the annual inspection and that permanently concealed elements are not expected to be inspected; Section 107.2 is also returned to the current text.

**Assembly Action:**

**None**

### *Individual Consideration Agenda*

**This item is on the agenda for individual consideration because a public comment was submitted.**

*Public Comment:*

**Lawrence G. Perry, AIA, representing Building Owners and Managers Association (BOMA) International, requests Disapproval.**

**Commenter's Reason:** The committee statement indicates that this item was approved because "the committee felt that it provides for the periodic inspection of fire-resistance-rated construction."

This change would either be a meaningless, 'feel-good' addition to the code, or an enormously complicated, enormously expensive, and enormously time-consuming new requirement. The fact that it could be either indicates how extensively flawed the proposal is.

The proposal includes no obligation for any documentation of these annual inspections, and testimony provided in Palm Springs supporting this change indicated it was not a big obligation, as the inspections could be done on a piecemeal basis as the 'owner' visited different parts of the facility. Well, 10 months from now, the owner of the hotel may not be 100% sure they've been in every guest room and peeked at every wall, ceiling, and floor, but since they don't have to document anything, they probably will decide they've seen them all.

Testimony in Palm Springs further pointed out the flaws in the proposal. In something like a ballroom with 50' high ceilings, someone testified that one could quickly do the 'inspection' with a pair of binoculars, unless of course, there is an access panel in the ceiling, because then one is obligated to go up 50' to open the panel. There were widely varying opinions about what extent of 'visual inspection' would be required: could one assess the 100' long, 50' high ballroom wall from across the room, or would one need to look all along the entire 5,000 SF surface of the wall?

This proposal is a step in the wrong direction. It introduces the notion that maintenance of fire-resistance-rated construction is a once-a-year concern. Current code text makes it a continual obligation.

Since 'accessible' is a defined term (per 201.3 of the IFC, which cites the IBC definitions), any concealed element would require inspection only if there were an access panel or door located between 15" and 48" above the floor, as that is the allowable range for accessible elements. Ceiling tiles, which are also noted, would never be 'accessible' per the defined term, as they would be located above any accessible reach range.

Final Action: AS AM AMPC\_\_\_\_\_ D

## **F108-07/08**

### **703.5 (New), 703.1.2**

#### *Proposed Change as Submitted:*

**Proponent:** Tom Lariviere, Fire Department, Madison, MS, representing Joint Fire Service Review Committee

#### **1. Add new text as follows:**

**703.5 Incidental accessory occupancies in Group I-1, I-2 and R-4 occupancies.** Where located in existing Group I-1, I-2 and R-4 occupancies, the incidental accessory occupancies listed in Table 508.2.5 (Supp) of the International Building Code shall be separated from the remainder of the building by a fire barrier constructed in accordance with Section 706 of the International Building Code or a horizontal assembly constructed in

*Proposed Change as Submitted:*

**Proponent:** Philip M. Chandler, NY State Office of Fire Prevention and Control

**Revise as follows:**

**807.1 General requirements.** In occupancies in Groups A, E, I and R-1 and dormitories in Group R-2, curtains draperies, hangings and other decorative materials suspended from walls or ceilings shall meet the flame propagation performance criteria of NFPA 701 in accordance with Section 806.2 or be noncombustible.

**Exceptions:**

1. Curtains, draperies, hangings and other decorative materials/suspended from walls of sleeping units and dwelling units in dormitories in Group R-2 protected by an approved automatic sprinkler system installed in accordance with Section 903.3.1 and such materials are limited to not more than 50 percent of the aggregate area of walls.
2. Decorative materials, including, but not limited to, photographs and paintings in dormitories in Group R-2 where such materials are of limited quantities such that a hazard of fire development or spread is not present.

In Groups I-1 and I-2, combustible decorative materials shall meet the flame propagation criteria of NFPA 701 unless the decorative materials, including, but not limited to, photographs and paintings, are of such limited quantities that a hazard of fire development or spread is not present. In Group I-3, combustible decorative materials are prohibited.

Fixed or movable walls and partitions, paneling, wall pads and crash pads, applied structurally or for decoration, acoustical correction, surface insulation or other purposes, shall be considered interior finish if they cover 10 percent or more of the wall or of the ceiling area, and shall not be considered decorative materials or furnishings.

In Group B and M occupancies, fabric partitions suspended from the ceiling and not supported by the floor shall meet the flame propagation performance criteria in accordance with Section 807.2 and NFPA 701 or shall be noncombustible.

**Reason:** It is well recognized that dormitories, especially those housing college students, present an elevated set of fire risk factors. Students often away from home for the first time, crowded conditions, experimentation with alcohol and controlled substances, smoking and use of candles and incense, not to mention a general feeling of invincibility of this age group, are all factors increasing the possibility of fire. Fire prevention experts have long recognized this fact and accordingly have worked to counter these risks with greater stringencies in the design, construction, maintenance and management of these occupancies. Section 807.1 of the IFC and its prohibition of combustible decorative materials not meeting the flame propagation standards of NFPA 701 in dormitories in Group R-2 is a good example. And not without good reason, as in the Chapel Hill fraternity fire and the Providence College fire of 1977 where ten students were killed, combustible interior trim and decorative materials were identified as playing a major role in the spread and development of the fire. (Comeau, Ed, "Campus Fire Safety," in, Cote, Arthur E. P.E., ed., *Fire Protection Handbook, Nineteenth Edition, Vol. 1*, Quincy, National Fire Protection Association, 2003: 5-99.)

Notwithstanding the above, in our zeal to prevent loss of life and limb, we have in fact gone overboard in our regulation of dormitory interior decoration. According to 807.1 college students are not allowed to post pictures of mom, team pennants, holiday cards, posters of Bob Dylan, you name it, on the walls of their own bedrooms. Nor can young coeds living at street level in inner city dormitories provide for their privacy and security by placing curtains over their windows. To be sure, no one is advocating that dormitory residents be allowed to cover every available inch of wall and ceiling with combustible materials that will most certainly enhance the growth and spread of any fire. Rather in the proposed addition of two exceptions to 807.1, we are attempting to balance the legitimate needs of dormitory residents to personalize their own spaces in accordance with their own individual tastes, preferences and privacy concerns with the over-arching need to provide for their life-safety.

In Exception 1, we are liberalizing the use of combustible materials on windows and walls only, excluding ceilings and the risk of drop-down fire spread. We allow only an amount sufficient to accommodate the real-world lifestyle of today's students. And in all cases we require the dormitories to be fully equipped with automatic sprinkler systems. For those institutions already sprinklered, we feel that this level of protection will adequately offset the relaxation of restrictions. To those institutions that have not yet sprinklered all of their existing dormitories, we feel that the market-driven need to deliver what their customers demand and can get elsewhere, will provide an added incentive to install sprinklers sooner than later. We feel strongly that sprinklers save lives.

In Exception 2, we provide for only the most basic level of personalization of dormitories. A level exactly the same as already allowed for residents of occupancies in Groups I-1 and I-2: alcohol and drug centers, half-way-houses, mental hospitals and detoxification centers, to name a few. Is it unreasonable to allow these residents the right to tack a photograph from home on the wall while denying the same right to homesick college students?

There are some that might argue that Exception 2 relies on an overly subjective assessment standard for establishing the acceptable limits of combustible decoration: Does it produce a risk of fire spread or not? They might prefer an arbitrarily set percentage of allowable combustibles as opposed to a more open-ended standard. However we in the code enforcement community have already adopted and embraced this criterion as evidenced by the language in 807.1 in regard to Groups I-1 and I-2. We as professionals are well equipped to determine if a fire hazard exists in a dormitory when dealing with such minute quantities of decorative materials without recourse to our slide rules and tape measures.

Apart from all that has been said above, consider one more reason to liberalize 807.1: its lack of practicality. If we are persistent in our efforts to enforce this provision as written, as many of us have been, seeking 100 percent compliance, we are more than likely to completely alienate students and institutional administrators as well. Fire prevention is accomplished through education as much as it is by code enforcement and engineering. If we are the ones that are seen as the grinch that stole freedom of personal expression and individuality, if we are the ones handing out fines for an American flag on the wall, our ability to get in front of students and faculty and positively influence their life-safety decisions will be severely compromised, and for what? A few scraps of paper or strips of cloth? There are laws, rules and regulations, that regardless of how well intended, are simply draconian in their impact. The cost of their enforcement is counter-productive and counter-intuitive to their purpose. Prohibition comes to mind. We feel that the proposed exceptions to 807.1 provide a more realistic and humane standard without putting the public at increased risk of harm by fire.

**Cost Impact:** The code change proposal will not increase the cost of construction.

**Committee Action:**

**Disapproved**

**Committee Reason:** The proposal was disapproved because the committee expressed concerns over the lack of any apparent rationale for allowing the 50% coverage in Exception #1 and also whether such regulations might not be bordering on becoming a civil rights/freedom of speech issue. Additionally, it was felt that Exception #2 is too subjective and provides no guidance as to what "limited quantities" are, who is to make the determination that a fire spread hazard is not present or how the hazard might be analyzed and determined.

**Assembly Action:**

**None**

### *Individual Consideration Agenda*

**This item is on the agenda for individual consideration because a public comment was submitted.**

*Public Comment:*

**Philip M. Chandler, New York State Department, Office of Fire Prevention & Control, requests Approval as Submitted.**

**Commenter's Reason:** The Committee identified three reasons for its disapproval of proposal F127-07/08. These reasons are concern for possible infringement of constitutionally protected free speech, "lack of apparent rationale for allowing the 50 percent coverage in Exception #1," and the seemingly vague and overly subjective criteria of Exception #2.

The issue of free speech is in fact at the very heart of the proposed modification of IFC 807.1, as this code section itself threatens the First Amendment right of free speech. As currently written, all combustible decorations and hangings, including photographs, paintings, posters and for that matter, American flags, are effectively prohibited, as very few of these items are noncombustible or meet the flame propagation performance criteria of NFPA 701. The proposed modifications of F127-07/08 are a remedy. It is a well accepted principle in American law that there can be life-safety issues that override First Amendment rights; even school children learn that maliciously "yelling fire in a crowded theatre" is not protected speech. However, we maintain that combustible decorations do not rise to such a risk threshold as to be banned entirely, only reasonably regulated.

With the above in mind, the 50 percent sprinkler allowance of Exception #1 should be seen as a numerically perfect and reasonable compromise between those asserting that all combustible decorations in dormitories present an over-arching threat to life-safety and those asserting that there is an insufficient threat to life-safety to warrant abrogation of protected individual expression. Additionally, for those institutions not yet sprinklered, this exception provides a great inducement to install them. Those that already have sprinklers may rest assured that when properly designed and installed, they will provide wall to wall coverage and at the very least, provide a tenable environment for escape of the occupants in the event of fire. The IFC has provided a 50 percent compromise for sprinklered occupancies elsewhere without supporting data (807.1.2) and presumably as an inducement for sprinkler installation, has also relaxed building height requirements (1019.2), fire-resistance standards (1017.1) and egress criteria (1016.1); to do so here in regards to decorations would be logically consistent.

As for the Committee's assertion that Exception #2 is overly vague and subjective, consider that the concept of "such limited quantities that a hazard of fire development or spread is not present," is precisely the litmus test already adopted by the IFC in regards to I-1 and I-2 occupancies. Who analyzes the fire risk in those occupancies and according to what standards is the hazard there determined? Some might argue that these occupancy classifications are completely dissimilar: I-1 and I-2 are supervised, while R-2 dormitories are not. However this is not the case. First of all, the very definition of a dormitory in IBC 310.2 rests on the assumption that they are under "single management." R-2 dormitories are among the most tightly regulated of all occupancies. It is reasonable to expect that among all of the professionals exercising oversight of dormitories, including code enforcement personnel, are those that have adequate knowledge of fire behavior to recognize an honest-to-goodness fire hazard when present.

Final Action: AS AM AMPC\_\_\_\_ D



P.O. Box 12164  
Richmond, Virginia 23241  
(804) 649-8471 / fax (804) 343-3758



Virginia Association of Counties  
1001 East Broad Street, Suite LL 20  
Richmond, Virginia 23219-1928  
(804) 788-6652 / fax (804) 788-0083

**October 2008**

## **HB 1353 Ad Hoc Firework Report**

This report is an account of the activities and recommendations of the Ad Hoc Fireworks Committee formed to study issues included in HB 1353 introduced by Delegate Tom Gear in the 2008 session of the Virginia General Assembly. The bill addressed a number of issues regarding definitions and local authority to regulate fireworks. Several meetings were hosted by Delegate Gear during the 2008 session in regard to this legislation and concerns were raised by localities, state and local fire marshals, retailers and fireworks manufacturers.

After the meetings during the legislative session in which concerns of the various parties were discussed, Delegate Gear advised the Stakeholders that he would strike the bill for the session if the stakeholders committed to form a work group in order to identify issues and solutions to the issues raised. The Virginia Association of Counties and the Virginia Municipal League agreed to facilitate these stakeholder meetings. The various stakeholders were asked to select representatives for the group and a committee was formed consisting of representatives of state and local fire groups, the Virginia Department of Housing and Community development, local governments, a fireworks manufacturer and retailers.

At the first meeting in April, 2008 introductions were made and the issues were laid out for the group. Three major issues arose during this discussion. The issues were;

- 1) The authority of local officials to pass codes more restrictive than the state fire prevention code
- 2) The interpretation and imposition of weight restrictions and supervision of fireworks displays in retail establishments and
- 3) Whether the definitions of fireworks included in the state code were understandable and current.

After a lengthy general discussion and vetting of the issues occurred, two workgroups were formed. The definitions group was chaired by Glen Dean of the State Fire Marshal's office and the Mercantile Sales workgroup chaired by Chief Keith Johnson, Fairfax County Fire Marshall.

These groups met and discussed the issues assigned to them by the Ad Hoc group. Both work groups reported the results of their work at a meeting held on May 19, 2008 in the Henrico County Fire training center. The end result of the workgroups were discussed by the full committee and an agreement was made that while no party got everything they desired that the compromise reached was agreeable to all parties as a resolution to the main issue that gave rise to the legislation introduced on behalf of TNT.

The resolution reached included the following conditions for display and storage in Fairfax and Loudoun Counties:

#### Display

A representative from the store shall monitor the display of the 1.4G consumer fireworks (permissible fireworks) to prevent maliciously tampering, attempting to ignite, or underage accessibility. This store representative may have other duties or assignments in the immediate area of the approved fireworks but may not be a cashier.

A store security video system shall monitor the fireworks display during business hours. In times when the store representative's attention is focused on other duties and cannot monitor the display of fireworks, the store security video system shall be continuously monitored by store personnel. This temporary unattended option shall be utilized no longer than 10 minutes per hour while the store is open to the public. If unable to comply with this procedure then constant supervision by a competent person would be instituted including a physical barrier that prevents tampering or access by unauthorized persons

#### Storage

In sprinklered buildings a maximum of 250 pounds net weight of pyrotechnic composition of the total quantity of fireworks, including retail display samples, may be stored in the building. Where Pyrotechnic composition is not known 25 percent gross weight of the fireworks including packaging shall be used as the maximum permitted quantity.

In Non-Sprinklered buildings a maximum of 125 pounds net weight of pyrotechnic composition of the total quantity of fireworks, including retail display samples may be stored in the building. Where the net weight of the pyrotechnic composition of the fireworks is not known, 25 percent of the gross weight of the fireworks including packaging shall be used as the maximum permitted quantity.

The workgroup met on September 29, 2008 at the Virginia Department of Fire programs facilities in Glen Allen Virginia to discuss and approve the final report. The work of the committee is completed.

## Rodgers, Emory

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**From:** Hodge, Vernon  
**Sent:** Friday, January 09, 2009 9:59 AM  
**To:** 'Dawson, Robby'  
**Cc:** Rodgers, Emory; Eubank, Paula  
**Subject:** RE: Ad Hoc Fireworks committee report  
**Attachments:** Paper - Mercantile Display of Fireworks.pdf

Robby, attached is a position paper drafted during the subcommittee work on the Ad Hoc Fireworks Committee. Phyllis and Mark chose not to pass it along to the committee members as they felt it got into broader issues than the committee was charged with addressing. The paper outlines several issues which I believe should be addressed in the 2009 code change cycle.

In addition, there are two provisions in the SFPC which do not match the permissible fireworks law that we need to look at. They are:

1) Exception #4 to Section 3301.1.3. This exception uses IFC language except the term "permissible fireworks" was substituted for "specific types of Division 1.4G fireworks." Unfortunately, the additional IFC language does not match our state law for permissible fireworks. It states "where allowed by applicable local or state laws, ordinances and regulations" and requires that such exempt permissible fireworks still comply with "CPSC 16 CFR, Parts 1500-1507 and DOTn 49 CFR, Parts 100-178." Our state law simply says that the sale of permissible fireworks are exempt from the SFPC and the use, ignition or exploding of permissible fireworks is also exempt if done on private property with the consent of the owner, unless either are prohibited by a local ordinance. So to fix the exemption, it should be worded to match state law.

2) Exception to Section 3308.2. This exception is an attempt to use the permissible fireworks language in state law to say that permits are not necessary. However, it adds the term "supervised" which is not in state law at all. It also says "use or display" where state law says "using, igniting or exploding." So the fix would be to change the provision to match state law. It probably should say, "In localities where there are no local ordinances to the contrary, permits are not required for any person using, igniting or exploding permissible fireworks on private property with the consent of the owner of such property."

There is also the correlation of the term "permissible fireworks" with the term "fireworks." The decision needs to be made whether permissible fireworks are fireworks, or are not fireworks. The definition doesn't say as the term is not a subset of the term fireworks. In addition, it's not clear whether permissible fireworks fit the 1.4G category and are therefore not explosive materials for the purposes of the SFPC.

Vernon Hodge, Technical Services Manager  
Technical Assistance Services Office (TASO)  
Division of Building and Fire Regulations  
Va. Department of Housing and Community Development  
Direct Dial: (804) 371-7174  
Email: [Vernon.Hodge@DHCD.virginia.gov](mailto:Vernon.Hodge@DHCD.virginia.gov)  
Blackberry: (804) 382-2973

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**From:** Rodgers, Emory  
**Sent:** Wednesday, January 07, 2009 3:47 PM  
**To:** Dawson, Robby  
**Cc:** Hodge, Vernon  
**Subject:** RE: Ad Hoc Fireworks committee report

Poundages being set; supervision; and, haven't reviewed files but will ask Vernon to chip in too. Thanks.

---

**From:** Dawson, Robby [<mailto:DawsonJ@chesterfield.gov>]

## **DISCUSSION PAPER ON MERCANTILE DISPLAY AND STORAGE OF PERMISSIBLE FIREWORKS**

For the Ad Hoc Committee on HB 1353

Author: Vernon W. Hodge, Committee Member Representing the Virginia Board of Housing and  
Community Development

### **Overview**

While the issues of whether the sale of permissible fireworks is permitted and whether displays in mercantile occupancies must not be readily accessible to the public appear to be functions of local fire prevention regulations and not subject to the Virginia Statewide Fire Prevention Code (VSFPC), it has become apparent from discussions in the Committee's workgroup on mercantile sales that the VSFPC is being used by local fire prevention code agencies to determine the quantity of permissible fireworks that may be displayed and stored for future display in mercantile occupancies. The purpose of this discussion paper is to examine the application of pertinent state laws and the VSFPC in this regard and to suggest clarification of the laws and regulations to eliminate ambiguity and conflict.

### **Pertinent State Laws**

The initial law concerning fireworks was contained in the Commerce section of the Code of Virginia prior to being moved to the Statewide Fire Prevention Code section in 2002. All indications are that when the law was moved, there was no intent to change it. However, there are some differences in the wording of the two laws that should be examined.

The pertinent provisions in the original commerce law are below:

#### **§59.1-147. Chapter inapplicable to certain fireworks; such fireworks to be used only on private property.**

(a) This chapter shall not apply to the use or the sale of sparklers, fountains, Pharoah's serpents, caps for pistols, or to pinwheels commonly known as whirligigs or spinning jennies;

(b) Provided, however, the fireworks listed in subsection (a) may only be used, ignited or exploded on private property with the consent of the owner of such property.

#### **§59.1-148. Local ordinances not affected.**

Nothing contained in this chapter shall apply to any ordinance prohibiting the sale, storage, use, possession or manufacture of fireworks heretofore or hereafter adopted by any county, city or town.

The pertinent provisions of the VSFPC law are below:

#### **§27-95. Definitions.**

“Permissible fireworks” means any sparklers, fountains, Pharoah’s serpents, caps for pistols, or pinwheels commonly known as whirligigs or spinning jennies.

**§27-96.1 Chapter inapplicable to certain uses of fireworks.**

Unless prohibited by a local ordinance, the provisions of this chapter pertaining to fireworks shall not apply to the sale of or to any person using, igniting or exploding permissible fireworks on private property with the consent of the owner of such property.

The first issue concerning the laws is whether they exempt the display and incidental storage of permissible fireworks in mercantile occupancies. An Attorney General’s Opinion was issued under the original law which stated that “the fireworks described in §59.1-147 may be sold in this Commonwealth in accordance with the plain meaning of that statute. In addition, these same fireworks may be transported, stored, offered for sale and bought, in that such acts are necessarily incidental to a lawful sale.” The complete opinion is attached to his paper and labeled as “Attachment A.”

In the original law, the terms “use” and “sale” were in subsection “(a)” which was entirely independent of the “private property” clause, which was in subsection (b) and addressed the use, igniting or exploding of permissible fireworks. Therefore the sale of permissible fireworks, including the display and incidental storage of permissible fireworks in mercantile occupancies were exempt from the law and the “private property” clause did not come into play.

When the commerce law was moved to the VSFPC law section of the Code of Virginia, the two subsections were combined. The restructuring of the language has raised issues concerning whether the meaning has changed.

The following suggested changes to the VSFPC law will eliminate the ambiguity caused by the combining of the subsections and clearly address the display and incidental storage in mercantile occupancies. Two versions are suggested, the first version will maintain the language in the original law and the second version will permit the regulation of the display and incidental storage in mercantile occupancies under the VSFPC.

**Suggested Revision of §27-96.1 to maintain the original commerce law:**

**§27-96.1 Chapter inapplicable to certain uses of fireworks.**

~~Unless prohibited by a local ordinance, the~~ The provisions of this chapter pertaining to fireworks shall not apply to the sale of or permissible fireworks, including the display and incidental storage of permissible fireworks in mercantile occupancies, nor do the provisions of this chapter pertaining to fireworks apply to any person using, igniting or exploding permissible fireworks on private property with the consent of the owner of such property. However, nothing contained in this chapter shall apply to any ordinance prohibiting the sale, storage, use, possession or manufacture of fireworks heretofore or hereafter adopted by any county, city or town.

**Suggested Revision of §27-96.1 to permit the VSFPC to regulate the display and incidental storage of permissible fireworks in mercantile occupancies:**

§27-96.1 Chapter inapplicable to certain uses of fireworks.

Unless prohibited by a local ordinance, the provisions of this chapter pertaining to fireworks shall not apply to the sale of or permissible fireworks, except that regulations may be adopted to specify requirements for the display and incidental storage of permissible fireworks in mercantile occupancies, nor do the provisions of this chapter pertaining to fireworks apply to any person using, igniting or exploding permissible fireworks on private property with the consent of the owner of such property. However, nothing contained in this chapter shall apply to any ordinance prohibiting the sale, storage, use, possession or manufacture of fireworks heretofore or hereafter adopted by any county, city or town.

**Requirements of the VSFPC and the Virginia Uniform Statewide Building Code (VUSBC).**

There are a number of issues pertaining to the provisions of the VSFPC and the VUSBC which affect the amount of permissible fireworks permitted in mercantile occupancies notwithstanding the confusion over whether the state laws even permit the VSFPC to apply.

The first issue is that under the state's regulatory scheme, the VUSBC is the controlling regulation for the amounts of any hazardous or explosive material which may be present in any building. The VUSBC controls the construction of new buildings. When a new building is constructed, it is assigned an occupancy classification depending upon how the building will be used. When hazardous or explosive materials are to be present in a building, the classification of a building may fall under a Group H (hazardous) classification depending on the amount of hazardous or explosive materials which will be present. The amounts of hazardous or explosive materials which trigger the Group H classification have changed over the years. In other words, a building constructed under an early edition of the VUSBC or even prior to the implementation of the VUSBC (which was in September of 1973) may be permitted to have more (or perhaps even less) amounts of hazardous or explosive materials for the Group H classification to apply. The earlier BOCA Codes (the model code used by the VUSBC until the 2000 edition) generally only listed fireworks manufacturing as a Group H. The Group M, or mercantile, occupancy requirements did specify that only certain amounts of Group H materials could be present. It was not until the 1993 edition of the BOCA Code that the control area concept was introduced. Even under that edition, the table for hazardous materials did not contain a specific line item for fireworks.

The VSFPC's role in controlling the amounts of hazardous or explosive materials which may be present in a building is one of maintaining the amounts of such materials in existing buildings to that which was approved under the VUSBC or other code under which a building was initially constructed. Should the amounts be increased to where the occupancy of the building would be changed from Group M to Group H, that is considered to be change of occupancy and such changes of occupancy are regulated under the VUSBC. The VSFPC has a specific provision to coordinate with the VUSBC addressing change of occupancy in existing buildings (Section 102.1.1) which states that "No change shall be made in the use or occupancy of any structure that

would place the structure in a different division of the same group of occupancies, unless such structure is made to comply with the requirements of this code and the USBBC.”

Making matters more complicated, the International Codes (the International Fire Code or “IFC” and the International Building Code or “IBC”) are not written to fit the state’s regulatory scheme. Many construction provisions are contained in the IFC and the provisions for Group H in the IFC and the IBC are not the same. For example, the IFC contains two exemptions for fireworks, one in the chapter on hazardous materials (Chapter 27) and one in the chapter on explosives and fireworks (Chapter 33). The exemption in Chapter 27 is Exception #7 in Section 2701.1 which states that the display, storage, sale or use of fireworks and explosives is not subject to Chapter 27, but instead subject to Chapter 33. Then in Chapter 33, Exception #4 to Section 3301.1.3 states that the possession, storage, sale, handling and use of specific types of Division 1.4G fireworks are permitted where allowed by applicable laws, ordinances and regulations. On the other hand, the IBC has no such exemptions. So it may very well be that the IBC is more restrictive than the IFC by including fireworks as explosives and as hazardous materials.

### **Conclusion**

Resulting from discussions internally, DHCD is committed to addressing the inconsistencies in the use of the International Codes for the display and incidental storage of fireworks in mercantile occupancies. This will occur in the next code change cycle where the VSFPC and VUSBC will incorporate the 2009 editions of the International Codes. This will include any amendments necessary to those codes to bring it into alignment with any changes to state law which result from the activity of this ad hoc committee. The code change process the Department utilizes is all-inclusive and workgroups will be formed to look at all issues. The Department welcomes the participation of members of this ad hoc committee in the 2009 code change process in addressing these issues and other issues of interest to any members.

OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF VIRGINIA  
1975 Va. AG LEXIS 70; 1974-1975 Op. Atty Gen. Va. 186  
[NO NUMBER IN ORIGINAL]  
January 3, 1975

**Request By:**

THE HONORABLE GEORGE W. GRAYSON, Member, House  
of Delegates

**Opinion**

**Opinion by:** ANDREW P. MILLER, Attorney General

This is in reply to your recent letter in which you ask whether manufacture of fireworks is absolutely prohibited in the Commonwealth. I am of the opinion that this activity is absolutely prohibited except as to "any officer or member of the armed forces of this State, or the United States, while acting within the scope of his authority." See § 59.1-146, Code of Virginia (1950), as amended.

Section 59.1-142 of the Code states:

"Except as otherwise provided in this chapter, it shall be unlawful for any person, firm or corporation to transport, manufacture, store, sell, offer for sale, expose for sale, or to buy, use, ignite or explode any firecracker, torpedo, skyrocket, or other substance or thing, of whatever form or construction, containing nitrates, chlorates, oxalates, sulphides of lead, barium, antimony, nitroglycerine, phosphorus or any other explosive or inflammable compound or substance, and intended, or commonly known, as fireworks."

Sections 59.1-144 and 59.1-147 provide exceptions from these absolute prohibitions and read as follows:

"§ 59.1-144. Permits for display of fireworks; sales for use thereunder. --The governing bodies of the several counties, cities and towns shall have the power to provide for the issuance of permits, upon application in writing, for the display of fireworks by fair associations, amusement parks, or by any organization or group of individuals, under such terms and conditions as they may prescribe. After such permit has been issued sales of fireworks may be made for use under such permit, and the association, organization or group to which it is issued may make use of such fireworks under the terms and conditions of such permit."

"§ 59.1-147. Chapter inapplicable to certain fireworks; such fireworks to be used only on private property.--(a) This chapter shall not apply to the use or the sale of sparklers, fountains, Pharoah's serpents, caps for pistols, or to pinwheels commonly known as whirligigs or spinning jennies;

"(b) Provided, however, the fireworks listed in paragraph (a) may only be used, ignited or exploded on private property with the consent of the owner of such property."

In an opinion dated April 25, 1973, to the Honorable James A. Cales, Jr., Commonwealth's Attorney for the City of Portsmouth, I stated:

". . . it is my opinion that §§ 59.1-142 and 59.1-147 must be construed and applied so as to harmonize the statutes in question and to accomplish the apparent legislative intent. I would rule, therefore, that the fireworks described in § 59.1-147 may be sold in this Commonwealth in

accordance with the plain meaning of that statute. In addition, these same fireworks may be transported, stored, offered and exposed for sale and bought, in that such acts are necessarily incidental to a lawful sale."

Since transportation is necessarily incident to a lawful sale, § 59.1-142 must be read in *pari materia* with § 59.1-144 and 59.1-147. Manufacturing is not incidental but is a completely separate function, and the express prohibition of § 59.1-142 is controlling.

## APPENDIX B

# FIRE-FLOW REQUIREMENTS FOR BUILDINGS

*The provisions contained in this appendix are not mandatory unless specifically referenced in the adopting ordinance.*

### SECTION B101 GENERAL

**B101.1 Scope.** The procedure for determining fire-flow requirements for buildings or portions of buildings hereafter constructed shall be in accordance with this appendix. This appendix does not apply to structures other than buildings.

### SECTION B102 DEFINITIONS

**B102.1 Definitions.** For the purpose of this appendix, certain terms are defined as follows:

**FIRE-FLOW.** The flow rate of a water supply, measured at 20 pounds per square inch (psi) (138 kPa) residual pressure, that is available for fire fighting.

**FIRE-FLOW CALCULATION AREA.** The floor area, in square feet (m<sup>2</sup>), used to determine the required fire flow.

### SECTION B103 MODIFICATIONS

**B103.1 Decreases.** The fire chief is authorized to reduce the fire-flow requirements for isolated buildings or a group of buildings in rural areas or small communities where the development of full fire-flow requirements is impractical.

**B103.2 Increases.** The fire chief is authorized to increase the fire-flow requirements where conditions indicate an unusual susceptibility to group fires or conflagrations. An increase shall not be more than twice that required for the building under consideration.

**B103.3 Areas without water supply systems.** For information regarding water supplies for fire-fighting purposes in rural and suburban areas in which adequate and reliable water supply systems do not exist, the fire code official is authorized to utilize NFPA 1142 or the *International Wildland-Urban Interface Code*.

### SECTION B104 FIRE-FLOW CALCULATION AREA

**B104.1 General.** The fire-flow calculation area shall be the total floor area of all floor levels within the exterior walls, and under the horizontal projections of the roof of a building, except as modified in Section B104.3.

**B104.2 Area separation.** Portions of buildings which are separated by fire walls without openings, constructed in accordance with the *International Building Code*, are allowed to be considered as separate fire-flow calculation areas.

**B104.3 Type IA and Type IB construction.** The fire-flow calculation area of buildings constructed of Type IA and Type IB construction shall be the area of the three largest successive floors.

**Exception:** Fire-flow calculation area for open parking garages shall be determined by the area of the largest floor.

### SECTION B105 FIRE-FLOW REQUIREMENTS FOR BUILDINGS

**B105.1 One- and two-family dwellings.** The minimum fire-flow requirements for one- and two-family dwellings having a fire-flow calculation area which does not exceed 3,600 square feet (344.5 m<sup>2</sup>) shall be 1,000 gallons per minute (3785.4 L/min). Fire-flow and flow duration for dwellings having a fire-flow calculation area in excess of 3,600 square feet (344.5 m<sup>2</sup>) shall not be less than that specified in Table B105.1.

**Exception:** A reduction in required fire flow of 50 percent, as approved, is allowed when the building is provided with an approved automatic sprinkler system.

**B105.2 Buildings other than one- and two-family dwellings.** The minimum fire-flow and flow duration for buildings other than one- and two-family dwellings shall be as specified in Table B105.1.

**Exception:** A reduction in required fire-flow of up to 75 percent, as approved, is allowed when the building is provided with an approved automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2. The resulting fire-flow shall not be less than 1,500 gallons per minute (5678 L/min) for the prescribed duration as specified in Table B105.1.

### SECTION B106 REFERENCED STANDARDS

ICC	IBC	International Building Code	B104.2, Table B105.1
ICC	IWUIC	International Wildland-Urban Interface Code	B103.3
NFPA	1142	Standard on Water Supplies for Suburban and Rural Fire Fighting	B103.3

**TABLE B105.1**  
**MINIMUM REQUIRED FIRE-FLOW AND FLOW DURATION FOR BUILDINGS<sup>a</sup>**

FIRE-FLOW CALCULATION AREA (square feet)					FIRE-FLOW (gallons per minute) <sup>c</sup>	FLOW DURATION (hours)
Type IA and IB <sup>b</sup>	Type IIA and IIIA <sup>b</sup>	Type IV and V-A <sup>b</sup>	Type IIB and IIIB <sup>b</sup>	Type V-B <sup>b</sup>		
0-22,700	0-12,700	0-8,200	0-5,900	0-3,600	1,500	2
22,701-30,200	12,701-17,000	8,201-10,900	5,901-7,900	3,601-4,800	1,750	
30,201-38,700	17,001-21,800	10,901-12,900	7,901-9,800	4,801-6,200	2,000	
38,701-48,300	21,801-24,200	12,901-17,400	9,801-12,600	6,201-7,700	2,250	
48,301-59,000	24,201-33,200	17,401-21,300	12,601-15,400	7,701-9,400	2,500	
59,001-70,900	33,201-39,700	21,301-25,500	15,401-18,400	9,401-11,300	2,750	
70,901-83,700	39,701-47,100	25,501-30,100	18,401-21,800	11,301-13,400	3,000	3
83,701-97,700	47,101-54,900	30,101-35,200	21,801-25,900	13,401-15,600	3,250	
97,701-112,700	54,901-63,400	35,201-40,600	25,901-29,300	15,601-18,000	3,500	
112,701-128,700	63,401-72,400	40,601-46,400	29,301-33,500	18,001-20,600	3,750	
128,701-145,900	72,401-82,100	46,401-52,500	33,501-37,900	20,601-23,300	4,000	
145,901-164,200	82,101-92,400	52,501-59,100	37,901-42,700	23,301-26,300	4,250	4
164,201-183,400	92,401-103,100	59,101-66,000	42,701-47,700	26,301-29,300	4,500	
183,401-203,700	103,101-114,600	66,001-73,300	47,701-53,000	29,301-32,600	4,750	
203,701-225,200	114,601-126,700	73,301-81,100	53,001-58,600	32,601-36,000	5,000	
225,201-247,700	126,701-139,400	81,101-89,200	58,601-65,400	36,001-39,600	5,250	
247,701-271,200	139,401-152,600	89,201-97,700	65,401-70,600	39,601-43,400	5,500	
271,201-295,900	152,601-166,500	97,701-106,500	70,601-77,000	43,401-47,400	5,750	
295,901-Greater	166,501-Greater	106,501-115,800	77,001-83,700	47,401-51,500	6,000	
—	—	115,801-125,500	83,701-90,600	51,501-55,700	6,250	
—	—	125,501-135,500	90,601-97,900	55,701-60,200	6,500	
—	—	135,501-145,800	97,901-106,800	60,201-64,800	6,750	
—	—	145,801-156,700	106,801-113,200	64,801-69,600	7,000	
—	—	156,701-167,900	113,201-121,300	69,601-74,600	7,250	
—	—	167,901-179,400	121,301-129,600	74,601-79,800	7,500	
—	—	179,401-191,400	129,601-138,300	79,801-85,100	7,750	
—	—	191,401-Greater	138,301-Greater	85,101-Greater	8,000	

For SI: 1 square foot = 0.0929 m<sup>2</sup>; 1 gallon per minute = 3.785 L/m; 1 pound per square inch = 6.895 kPa.

a. The minimum required fire flow shall be allowed to be reduced by 25 percent for Group R.

b. Types of construction are based on the *International Building Code*.

c. Measured at 20 psi.

## APPENDIX C

# FIRE HYDRANT LOCATIONS AND DISTRIBUTION

*The provisions contained in this appendix are not mandatory unless specifically referenced in the adopting ordinance.*

### SECTION C101 GENERAL

**C101.1 Scope.** Fire hydrants shall be provided in accordance with this appendix for the protection of buildings, or portions of buildings, hereafter constructed.

### SECTION C102 LOCATION

**C102.1 Fire hydrant locations.** Fire hydrants shall be provided along required fire apparatus access roads and adjacent public streets.

### SECTION C103 NUMBER OF FIRE HYDRANTS

**C103.1 Fire hydrants available.** The minimum number of fire hydrants available to a building shall not be less than that listed in Table C105.1. The number of fire hydrants available to a complex or subdivision shall not be less than that determined by spacing requirements listed in Table C105.1 when applied to fire apparatus access roads and perimeter public streets from which fire operations could be conducted.

### SECTION C104 CONSIDERATION OF EXISTING FIRE HYDRANTS

**C104.1 Existing fire hydrants.** Existing fire hydrants on public streets are allowed to be considered as available. Existing fire hydrants on adjacent properties shall not be considered available unless fire apparatus access roads extend between properties and easements are established to prevent obstruction of such roads.

### SECTION C105 DISTRIBUTION OF FIRE HYDRANTS

**C105.1 Hydrant spacing.** The average spacing between fire hydrants shall not exceed that listed in Table C105.1.

**Exception:** The fire chief is authorized to accept a deficiency of up to 10 percent where existing fire hydrants provide all or a portion of the required fire hydrant service.

Regardless of the average spacing, fire hydrants shall be located such that all points on streets and access roads adjacent to a building are within the distances listed in Table C105.1.

**TABLE C105.1  
NUMBER AND DISTRIBUTION OF FIRE HYDRANTS**

FIRE-FLOW REQUIREMENT (gpm)	MINIMUM NUMBER OF HYDRANTS	AVERAGE SPACING BETWEEN HYDRANTS <sup>a, b, c</sup> (feet)	MAXIMUM DISTANCE FROM ANY POINT ON STREET OR ROAD FRONTAGE TO A HYDRANT <sup>d</sup>
1,750 or less	1	500	250
2,000-2,250	2	450	225
2,500	3	450	225
3,000	3	400	225
3,500-4,000	4	350	210
4,500-5,000	5	300	180
5,500	6	300	180
6,000	6	250	150
6,500-7,000	7	250	150
7,500 or more	8 or more <sup>e</sup>	200	120

For SI: 1 foot = 304.8 mm, 1 gallon per minute = 3.785 L/m.

a. Reduce by 100 feet for dead-end streets or roads.

b. Where streets are provided with median dividers which can be crossed by fire fighters pulling hose lines, or where arterial streets are provided with four or more traffic lanes and have a traffic count of more than 50,000 vehicles per day, hydrant spacing shall average 500 feet on each side of the street and be arranged on an alternating basis up to a fire-flow requirement of 7,000 gallons per minute and 400 feet for higher fire-flow requirements.

c. Where new water mains are extended along streets where hydrants are not needed for protection of structures or similar fire problems, fire hydrants shall be provided at spacing not to exceed 1,000 feet to provide for transportation hazards.

d. Reduce by 50 feet for dead-end streets or roads.

e. One hydrant for each 1,000 gallons per minute or fraction thereof.

## APPENDIX D

# FIRE APPARATUS ACCESS ROADS

*The provisions contained in this appendix are not mandatory unless specifically referenced in the adopting ordinance.*

### SECTION D101 GENERAL

**D101.1 Scope.** Fire apparatus access roads shall be in accordance with this appendix and all other applicable requirements of the *International Fire Code*.

### SECTION D102 REQUIRED ACCESS

**D102.1 Access and loading.** Facilities, buildings or portions of buildings hereafter constructed shall be accessible to fire department apparatus by way of an approved fire apparatus access road with an asphalt, concrete or other approved driving surface capable of supporting the imposed load of fire apparatus weighing at least 75,000 pounds (34 050 kg).

### SECTION D103 MINIMUM SPECIFICATIONS

**D103.1 Access road width with a hydrant.** Where a fire hydrant is located on a fire apparatus access road, the minimum road width shall be 26 feet (7925 mm). See Figure D103.1.

**D103.2 Grade.** Fire apparatus access roads shall not exceed 10 percent in grade.

**Exception:** Grades steeper than 10 percent as approved by the fire chief.

**D103.3 Turning radius.** The minimum turning radius shall be determined by the fire code official.

**D103.4 Dead ends.** Dead-end fire apparatus access roads in excess of 150 feet (45 720 mm) shall be provided with width and turnaround provisions in accordance with Table D103.4.

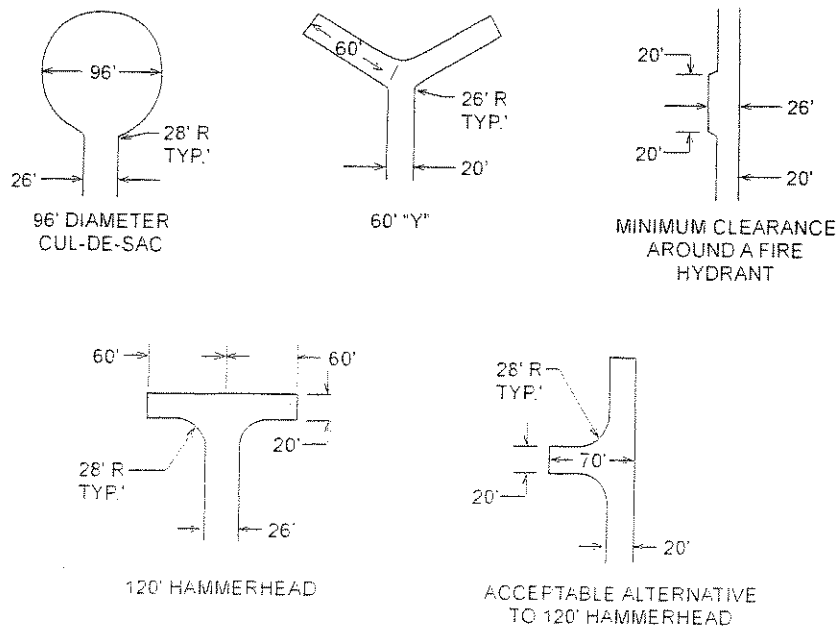
**TABLE D103.4**  
**REQUIREMENTS FOR DEAD-END FIRE**  
**APPARATUS ACCESS ROADS**

LENGTH (feet)	WIDTH (feet)	TURNAROUNDS REQUIRED
0-150	20	None required
151-500	20	120-foot Hammerhead, 60-foot "Y" or 96-foot-diameter cul-de-sac in accordance with Figure D103.1
501-750	26	120-foot Hammerhead, 60-foot "Y" or 96-foot-diameter cul-de-sac in accordance with Figure D103.1
Over 750		Special approval required

For SI: 1 foot = 304.8 mm.

**D103.5 Fire apparatus access road gates.** Gates securing the fire apparatus access roads shall comply with all of the following criteria:

1. The minimum gate width shall be 20 feet (6096 mm).



For SI: 1 foot = 304.8 mm.

**FIGURE D103.1**  
**DEAD-END FIRE APPARATUS ACCESS ROAD TURNAROUND**

2. Gates shall be of the swinging or sliding type.
3. Construction of gates shall be of materials that allow manual operation by one person.
4. Gate components shall be maintained in an operative condition at all times and replaced or repaired when defective.
5. Electric gates shall be equipped with a means of opening the gate by fire department personnel for emergency access. Emergency opening devices shall be approved by the fire code official.
6. Manual opening gates shall not be locked with a padlock or chain and padlock unless they are capable of being opened by means of forcible entry tools or when a key box containing the key(s) to the lock is installed at the gate location.
7. Locking device specifications shall be submitted for approval by the fire code official.

**D103.6 Signs.** Where required by the fire code official, fire apparatus access roads shall be marked with permanent NO PARKING—FIRE LANE signs complying with Figure D103.6. Signs shall have a minimum dimension of 12 inches (305 mm) wide by 18 inches (457 mm) high and have red letters on a white reflective background. Signs shall be posted on one or both sides of the fire apparatus road as required by Section D103.6.1 or D103.6.2.

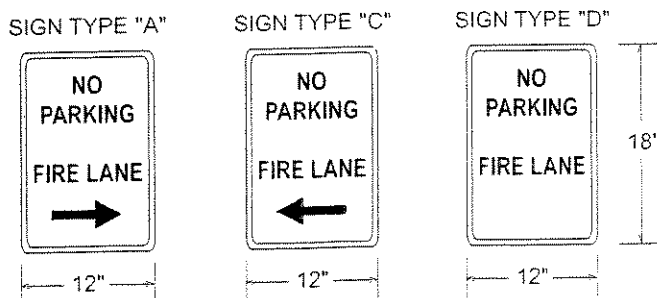


FIGURE D103.6  
FIRE LANE SIGNS

**D103.6.1 Roads 20 to 26 feet in width.** Fire apparatus access roads 20 to 26 feet wide (6096 to 7925 mm) shall be posted on both sides as a fire lane.

**D103.6.2 Roads more than 26 feet in width.** Fire apparatus access roads more than 26 feet wide (7925 mm) to 32 feet wide (9754 mm) shall be posted on one side of the road as a fire lane.

## SECTION D104 COMMERCIAL AND INDUSTRIAL DEVELOPMENTS

**D104.1 Buildings exceeding three stories or 30 feet in height.** Buildings or facilities exceeding 30 feet (9144 mm) or three stories in height shall have at least three means of fire apparatus access for each structure.

**D104.2 Buildings exceeding 62,000 square feet in area.** Buildings or facilities having a gross building area of more than 62,000 square feet (5760 m<sup>2</sup>) shall be provided with two separate and approved fire apparatus access roads.

**Exception:** Projects having a gross building area of up to 124,000 square feet (11 520 m<sup>2</sup>) that have a single approved fire apparatus access road when all buildings are equipped throughout with approved automatic sprinkler systems.

**D104.3 Remoteness.** Where two access roads are required, they shall be placed a distance apart equal to not less than one half of the length of the maximum overall diagonal dimension of the property or area to be served, measured in a straight line between accesses.

## SECTION D105 AERIAL FIRE APPARATUS ACCESS ROADS

**D105.1 Where required.** Buildings or portions of buildings or facilities exceeding 30 feet (9144 mm) in height above the lowest level of fire department vehicle access shall be provided with approved fire apparatus access roads capable of accommodating fire department aerial apparatus. Overhead utility and power lines shall not be located within the aerial fire apparatus access roadway.

**D105.2 Width.** Fire apparatus access roads shall have a minimum unobstructed width of 26 feet (7925 mm) in the immediate vicinity of any building or portion of building more than 30 feet (9144 mm) in height.

**D105.3 Proximity to building.** At least one of the required access routes meeting this condition shall be located within a minimum of 15 feet (4572 mm) and a maximum of 30 feet (9144 mm) from the building, and shall be positioned parallel to one entire side of the building.

## SECTION D106 MULTIPLE-FAMILY RESIDENTIAL DEVELOPMENTS

**D106.1 Projects having more than 100 dwelling units.** Multiple-family residential projects having more than 100 dwelling units shall be equipped throughout with two separate and approved fire apparatus access roads.

**Exception:** Projects having up to 200 dwelling units may have a single approved fire apparatus access road when all buildings, including nonresidential occupancies, are equipped throughout with approved automatic sprinkler systems installed in accordance with Section 903.3.1.1 or 903.3.1.2.

**D106.2 Projects having more than 200 dwelling units.** Multiple-family residential projects having more than 200 dwelling units shall be provided with two separate and approved fire apparatus access roads regardless of whether they are equipped with an approved automatic sprinkler system.

**SECTION D107  
ONE- OR TWO-FAMILY RESIDENTIAL  
DEVELOPMENTS**

**D107.1 One- or two-family dwelling residential developments.** Developments of one- or two-family dwellings where the number of dwelling units exceeds 30 shall be provided with separate and approved fire apparatus access roads and shall meet the requirements of Section D104.3.

**Exceptions:**

1. Where there are more than 30 dwelling units on a single public or private fire apparatus access road and all dwelling units are equipped throughout with an approved automatic sprinkler system in accordance with Section 903.3.1.1, 903.3.1.2 or 903.3.1.3.3, access from two directions shall not be required.
2. The number of dwelling units on a single fire apparatus access road shall not be increased unless fire apparatus access roads will connect with future development, as determined by the fire code official.

**Committee Action:****Disapproved**

**Committee Reason:** The proposal was disapproved because the committee felt that it was beyond the scope and intent of the definition of flammable solid and an inappropriate attempt to get polyurethane foam designated as a flammable solid based on an inappropriate test standard that is intended for chemicals, not ordinary consumer products containing foam material. Such a designation could have a negative impact on a variety of consumer issues including requiring otherwise ordinary occupancies to be classified as Group H due to the presence of polyurethane foam or products containing it, such as mattresses and upholstered furnishings. This is also consistent with the action taken on code change G29-07/08.

**Assembly Action:****None***Individual Consideration Agenda*

**This item is on the agenda for individual consideration because a public comment was submitted.**

*Public Comment:*

**Robert J. Davidson, Davidson Code Concepts, LLC, representing National Association of Fire Marshals (NASFM), requests Approval as Modified by this public comment.**

**Modify proposal as follows:**

**3603.2 Quantities exceeding the maximum allowable quantity per control area.** The storage and use of flammable solids exceeding the maximum allowable quantity per control area as indicated in Section 2703.1 shall be in accordance with Chapter 27 and this chapter.

**Exception:** Buildings storing mattresses containing polyurethane foam that have been tested and meet the criteria of 16 CFR Part 1633 are not required to comply with this chapter and Chapter 27. Buildings or structures containing polyurethane foam materials or products that are protected with an automatic sprinkler system and the use of mattresses containing polyurethane foam, in use as tested, that meet the criteria of 16 CFR Part 1633.

(Portions of proposal not shown remain unchanged)

**Commenter's Reason:** During the code development hearing for this proposal there was testimony that polyurethane foam is a flammable solid based upon research and testing. Opponents objected to the proposal because they believed the code did not intend to regulate polyurethane foam as a flammable solid and because to do so would have a tremendous affect on numerous occupancies containing polyurethane foam products. There was testimony that the test standard currently contained within the International Codes was intended to apply to chemicals and is not the correct standard to apply to polyurethane foam products. There was industry based testimony that many other agencies don't regulate polyurethane foam as a hazardous material and as a result it should not be regulated by the International Building Code or International Fire Code as a hazardous material.

The National Association of State Fire Marshals and the Joint Fire Service Review Committee both objected to the specifics of the proposal based upon the application of the mattress test standard. The stated reason of those objections were that the referenced test standard applied to mattresses in use, i.e., the test dealt with single mattresses placed upon a frame for use as a bed. It did not address conditions where mattresses might be placed on edge, stacked or in storage. As worded the mattress standard was being misapplied. The National Association of State Fire Marshals (NASFM) believes that according to the current provisions of the International Building Code and International Fire Code, polyurethane foam is a flammable solid.

Considerable background information was provided directly to the Fire Code Committee prior to the hearings concerning the classification of polyurethane foam as a flammable solid along with a comparison to how the codes are applied to other consumer products that are classified as hazardous materials. None of the committee members challenged the veracity of that information. This information can be found at: <http://www.firemarshals.org/mission/catastrophic/furniture-stores-and-furniture-warehouses/>

The opponents correctly identified that regulating polyurethane foam as a hazardous material would have a wide impact on occupancies with many potentially being classified as H-3 Group occupancies. NASFM agrees with the potential impact. But NASFM does not agree that it is a legitimate reason to fail to correctly apply the code to a material that laboratory testing has identified as a flammable solid and that has been recognized as contributing significant fuel loads when fires occur.

Only five committee members spoke during committee deliberations. Two of those committee members clearly agreed with the classification of polyurethane foam as a flammable solid and the need for regulation addressing the hazard presented by the polyurethane foam products. One committee member stated that he did not believe he was not convinced that the polyurethane was a flammable solid and that he believed that the proposed language was misapplying the mattress test standard. One committee member repeated the assertions of industry representatives that the proposal was a backdoor attempt to bring polyurethane foam products into the code for regulation and was concerned about the effect on occupancies containing consumer products manufactured with polyurethane foam components. The fifth committee members stated that he believed the proposal was misapplying the test standard and that a proper test standard should be utilized.

None of the opponents or objecting committee members addressed the fact that as currently written, the definition for flammable solids found within the code clearly embraces the chemical properties of polyurethane foam as indicated in industry produced chemical safety MSDS for polyurethane foam and as verified by laboratory testing. The industry produces chemical safety MSDS for these products identifying the material as a "combustible solid" and listing the severe fire hazard the material presents and the fact that the material liquefies and burns in the same manner as a flammable liquid when involved in fire. There is no question concerning the fire hazard presented by polyurethane foam and consumer products containing polyurethane foam. Research and laboratory testing has verified these hazards over and over. The same industry representatives that testified against proposals G29-07/08 and F288-07/08 proposed F135-07/08, a proposal that would require any mercantile occupancy used primarily for the display and sale of upholstered furniture to be protected with an automatic sprinkler system regardless of size. In testifying the industry representatives stated they were doing so because they wanted to protect the public and emergency responders from the fire hazard presented by the presence of polyurethane foam products. The committee approved the proposal as modified by removing the word primarily so the requirement would apply regardless of how much upholstered furniture was present. Part of the committee reason for approving the motion was:

*"The proposal was approved because the committee felt that it is a good first step supported by the furniture industry in attempting to deal with the hazards presented by upholstered furniture."*

The hazards presented by the upholstered furniture is due to the fact that polyurethane foam products are a flammable solid based upon descriptions contained within the chemical safety MSDS produced by polyurethane manufacturers, based upon the documented manner in which polyurethane reacts when exposed to sources of ignition and based upon laboratory testing. The committee's decision in F135-07/08 conflicts with its written reason for the decision in G29-07/08 and F288-07/08. Instead of sticking to the science and technical aspects of applying the code to the hazard presented it appears that some committee members allowed the potential effect on other occupancies of recognizing polyurethane foam as a flammable solid utilizing current code language.

This public comment to approve G29-07/08 and F288-07/08 as modified is intended to address several issues. It correctly applies the CPSC mattress standard by providing an exception for mattresses meeting the standard when positioned for use. The new wording limits the application of the standard to address testimony at the hearings and the decision of the committee. The modified language also builds upon the testimony of the industry representatives when F135-07/08 was considered by the committee and the statement of the committee that the requirement for automatic fire sprinkler protection in mercantile occupancies was a good first step to addressing the fire hazard presented by polyurethane foam. It does this by providing an exception from the current code requirements concerning flammable solids for any occupancy protected by an automatic fire sprinkler system.

We note that no one has refuted the position that polyurethane foam presents a severe fire potential and that when involved in fire it endangers lives and occupancies. No one has refuted how readily polyurethane foam will burn when exposed to an ignition source and that even fire retardant treated polyurethane foam products will burn vigorously when exposed to a flame source. No one has proposed changing the definition of a flammable solid currently contained within the code, a definition that clearly applies to products that react the way polyurethane foam does when tested in accordance with the current standard.

#### IBC [F]307.2 Definitions

*"FLAMMABLE SOLID. A solid, other than a blasting agent or explosive, that is capable of causing fire through friction, absorption or moisture, spontaneous chemical change, or retained heat from manufacturing or processing, or which has an ignition temperature below 212°F (100°C) or which burns so vigorously and persistently when ignited as to create a serious hazard. A chemical shall be considered a flammable solid as determined in accordance with the test method of CPSC 16 CFR, Part 1500.44, if it ignites and burns with a self-sustained flame at a rate greater than 0.1 inch (2.5 mm) per second along its major axis."*

This public comment addresses a recognized fire and life safety hazard and provides an exception that many existing occupancies already meet, that most if not all newly constructed occupancies meet, and that any occupancy can meet by simply limiting the amount of polyurethane material that is present or by installing an automatic fire sprinkler system.

Final Action: AS AM AMPC \_\_\_\_\_ D

## F290-07/08

### 4001.1, 4006

#### *Proposed Change as Submitted:*

**Proponent:** Tom Lariviere, Fire Department, Madison, MS, representing Joint Fire Service Review Committee

#### **Revise as follows:**

**4001.1 (Supp) Scope.** The storage and use of oxidizing materials shall be in accordance with this chapter and Chapter 27. Oxidizing gases shall also comply with Chapter 30. Oxidizing cryogenic fluids shall also comply with Chapter 32.

#### **Exceptions:**

1. Display and storage in Group M and storage in Group S occupancies complying with Section 2703.11.
2. Bulk oxygen systems at industrial and institutional consumer sites shall be in accordance with NFPA 55.
3. Liquid oxygen stored or used in home health care in Groups I-1, I-4 and R occupancies in accordance with Section 4006.

### SECTION 4006 (Supp)

#### LIQUID OXYGEN IN HOME HEALTH CARE

**4006.1 General.** The storage and use of liquid oxygen (LOX) in home health care in Groups I-1, I-4 and R occupancies shall comply with Sections 4006.2 through 4006.3.76, as applicable or shall be stored and used in accordance with Chapter 27.

**4006.2 Information and instructions to be provided.** The supplier seller of liquid oxygen shall provide the user with the following information in written form that includes, but is not limited to, the following:

1. Manufacturer's instructions and labeling for safe storage and use operation of the containers used and labeling.
2. Locating containers away from ignition sources, exits, electrical hazards and high temperature devices in accordance with Section 4006.3.3.
3. Restraint of containers to prevent falling in accordance with Section 4006.3.4.
4. Requirements for transporting handling containers in accordance with Section 4006.3.5.
5. Safeguards for refilling containers in accordance with Section 4006.3.6 to be followed when containers are refilled.
6. Signage requirements in accordance with Section 4006.6.

**4006.3 Liquid oxygen home care containers.** ~~Liquid oxygen home care and ambulatory containers in Groups I-1, I-4, R-3 Residential Care/Assisted Living Facilities and R-4 occupancies shall be stored, used and filled in accordance with Sections 4006, 3203.1 and 3203.2. Containers of liquid oxygen in home health care shall be in accordance with Sections 4006.3.1 through 4006.3.6.~~

**4006.3.1 Maximum individual container capacity.** Liquid oxygen home care containers shall not exceed an individual capacity of 15.8 gal (60 liters) in Groups I-1, I-4, and R occupancies. Liquid oxygen ambulatory containers are allowed in Groups I-1, I-4, and R occupancies. Containers of liquid oxygen in home health care shall also be stored, used and filled in accordance with Sections 4006, 3203.1 and 3203.2.

**4006.3.1 4006.3.2 Manufacturer's instructions.** Containers shall be stored, used and operated in accordance with the manufacturer's instructions and labeling.

**4006.3.2 4006.3.3 Locating containers.** Containers shall not be located in areas:

1. Where they can be overturned due to operation of a door,
2. Where they are in the direct path of egress,
3. Subject to falling objects,
4. Where they may become part of an electrical circuit, or
5. Where open flames and high temperature devices can cause a hazard.

**4006.3.3 No smoking.** ~~Smoking shall be prohibited in rooms or areas where liquid oxygen is in use.~~

**4006.3.4 Signs.** ~~A sign stating "OXYGEN-NO SMOKING" shall be posted in the room or area where the liquid oxygen home care container(s) is stored or used and liquid oxygen ambulatory containers are filled.~~

**4006.3.5 4006.3.4 Restraining containers.** Liquid oxygen home care containers shall be restrained while in storage or use to prevent falling caused by contact, vibration or seismic activity. Containers shall be restrained by one of the following methods:

1. Restraining containers to a fixed object with one or more restraints.
2. Restraining containers within a framework, stand or assembly designed to secure the container.
3. Restraining containers by locating a container against two points of contact like the walls of a corner of a room or a wall and a secure furnishing or object like a desk.

**4006.3.6 4006.3.5 Container movement handling.** Containers shall be transported handled by use of a cart or hand truck designed for such use.

**Exceptions:**

1. Liquid oxygen home care containers equipped with a roller base.
2. Liquid oxygen ambulatory containers are allowed to be hand carried.

**4006.3.7 4006.3.6 Filling of containers.** The filling of containers shall be in accordance with Sections 4006.3.7.1 4006.3.6.1 through 4006.3.7.3 4006.3.6.3.

**4006.3.7.1 4006.3.6.1 Filling location of home care containers.** Liquid oxygen home care containers and ambulatory containers shall be filled outdoors.

**Exception:** Liquid oxygen ambulatory containers are allowed to be filled indoors if the supply container is specifically designed for filling such containers and written instructions are provided by the container manufacturer.

**4006.3.7.1.1 4006.3.6.2 Incompatible surfaces.** A liquid oxygen compatible drip pan compatible with liquid oxygen shall be provided under home care container fill and vent connections during the filling process in order to protect against liquid oxygen spillage from coming into contact with combustible surfaces, including asphalt.

**4006.3.7.2 Filling of ambulatory care containers.** The filling of liquid oxygen ambulatory containers is allowed indoors where the supply container is designed to fill them and written instructions are provided by the container manufacturer.

**4006.3.7.3 4006.3.6.3 Open flames and high temperature devices.** The use of open flames and high temperature devices shall be in accordance with Section 2703.7.2.

**4006.4 Maximum aggregate quantity.** The maximum aggregate quantity of liquid oxygen allowed in storage and in use in each dwelling unit shall be 31.6 gal (120 L).

**Exceptions:**

1. The maximum aggregate quantity of liquid oxygen allowed in Group I-4 occupancies shall be limited by the maximum allowable quantity set forth in Table 2703.1.1(1).
2. Where individual sleeping rooms are separated from the remainder of the dwelling unit by fire barriers and horizontal assemblies having a minimum fire-resistance rating of 1 hour in accordance with the *International Building Code*, the maximum aggregate quantity per dwelling unit can be increased to allow a maximum of 31.6 gal (120 L) of liquid oxygen per sleeping room.

**4006.5 Smoking prohibited.** Smoking shall be prohibited in rooms or areas where liquid oxygen is in use.

**4006.6 Signs.** Warning signs for occupancies using home health care liquid oxygen shall be in accordance with Sections 4006.6.1 and 4006.6.2.

**4006.6.1 No smoking sign.** A sign stating "OXYGEN--NO SMOKING" shall be posted in each room or area where liquid oxygen containers are stored, used or filled.

**4006.6.2 Premises signage.** Where required by the fire code official, each dwelling unit or sleeping unit shall have an approved sign indicating that the unit contains liquid oxygen home care containers.

**4006.7 Fire department notification.** Where required by the fire code official, the liquid oxygen seller shall notify the fire department of the locations of liquid oxygen home care containers.

**Reason:** Code change proposal F205-06/07 was accepted during the last code change cycle and is included in the 2007 Supplement. In reviewing this section with stakeholders including key industry representatives, the fire service, the fire fighter union and others, there are some changes that are still necessary to complete this subject. Included in this proposal are the consensus proposals from the discussions these groups held since the final action hearings for the 06/07 cycle.

It is not realistic to apply the MAQ/control area concept set forth in Chapter 27 to the widespread use and distribution of liquid oxygen in home health care occupancies. This proposal adds a third exception to clarify that liquid oxygen that is stored and used in home health care occupancies in accordance with Section 4006 is not required to also comply with Chapter 27 or Chapter 32 provisions. The concept in Section 4006 is to limit the individual container size and also limit the total number of containers allowed in an individual dwelling unit. Trying to further regulate the quantity in a building is not considered by either industry or the fire service to be a reasonable or enforceable regulatory approach.

This proposal accomplishes several important things:

1. It establishes a maximum capacity for individual containers of liquid oxygen (LOX) that can be stored and used in home health care occupancies. It is necessary to establish such a limit because there has been a trend to increase the size of the containers delivered to the user in some cases simply in order to avoid more frequent deliveries. If it is necessary to have individual containers larger than the limits established here, then the MAQ and control area concept set forth in Chapter 27 will apply.
2. It eliminates the direct reference to R-3 Residential Care and R-4 occupancies and more appropriately applies to all R occupancies, including single-family residences, hotels and apartments used for home health care.
3. It clarifies that it is the responsibility of the seller rather than the supplier of liquid oxygen to provide the user with important safety information as the supplier may not be the entity that has the direct contact with the user.

This change allows the fire code official to require signage for each dwelling unit or sleeping unit when the fire department deems it necessary to alert the fire fighters of the presence of LOX in a home. Using the term "when required by the fire code official" allows the fire department to require signage if that signage is part of their operational plans.

This change allows the fire code official to require the seller of LOX to notify the fire department if that fire department wants to track the locations of LOX within their jurisdiction. Some fire departments want to know where the LOX locations are so they can pre-plan those locations. Other fire departments do not want this information due to the potentially large amount of information and do not have the resources to process that information. This proposal uses the term "when required by the fire code official" to give that option to both the fire departments that want to track the information and those who do not want to track it.

**Cost Impact:** The code change proposal will increase the cost of construction.

## **Rodgers, Emory**

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**From:** Rodgers, Emory  
**Sent:** Wednesday, August 13, 2008 6:53 AM  
**To:** Mays, Eric M.  
**Cc:** John Glover; Clements, Ron; WittR@chesterfield.gov  
**Subject:** RE: Building Permit Required for Power Towers? (Addendum)

Certainly, this will be on table for 2009 regulations. Your decision is also reasonable since at the time any legislation or regulation is approved, there is always items not covered or common sense prevails on why should the USBC govern transmission towers under the control of public utilities including those electric and telephone poles. It is my opinion that the current language was meant to apply to the buildings housing the equipment and wiring of public utilities and not the transmission tower so I agree with your decision. I would have made the same decision if still a building official. The same applies for vehicular bridges whether on public or private streets. I think another reason for observation towers and radio towers being listed is that they are generally a singular structure and in many cases are associated with or near the buildings such as a t.v. or radio station or observation towers housing guards for a prison.

I will send onto VBCOA.

-----Original Message-----

From: Mays, Eric M. [mailto:emays@pwcgov.org]  
Sent: Tuesday, August 12, 2008 4:41 PM  
To: Rodgers, Emory  
Cc: Hodge, Vernon; Wallace, Clinton; Eubank, Paula; Brock, Larry; tnesbitt@oag.state.va.us; Shelton, Bill  
Subject: RE: Building Permit Required for Power Towers? (Addendum)

Emory:

I really appreciate the detailed analysis and discussion. I think my conclusion will be that the definition of "structures" does include radio towers and observation towers and does not include transmission line towers. I will assume the General Assembly omitted transmission line towers intentionally.

I think it would be really great if someone at the State level could get this explicitly into legislation.

Thanks,  
Eric

-----Original Message-----

From: Rodgers, Emory [mailto:Emory.Rodgers@dhcd.virginia.gov]  
Sent: Tuesday, August 12, 2008 2:34 PM  
To: Mays, Eric M.  
Cc: Hodge, Vernon; Wallace, Clinton; Eubank, Paula; Brock, Larry; tnesbitt@oag.state.va.us; Shelton, Bill  
Subject: RE: Building Permit Required for Power Towers? (Addendum)

Eric: This question has not been brought to our attention nor ever requested for an opinion. To our knowledge there have been no appeals on the subject. As building official, you could certainly apply the quoted sections and the definition of "structures" to conclude that the transmission towers are indeed covered by the USBC and state law. Your reading of USBC Section 102.3 and the definition of structure could lead you to reach a conclusion for requiring a building permit. A similar question came up several years ago regarding VDOT bridges and tunnels and legislation was approved for an exemption of those structures from the requirements of the USBC. You asked if the laundry list defining "structures" that includes radio towers might then include power transmission towers. It would be a reasonable conclusion.

Now for some other factors to consider:

1. We are not aware of any locality that has required the publicly regulated companies to obtain USBC building permits neither for power transmission towers nor for telephone and electric poles generally installed in neighborhoods.
2. Are there SCC regulations that govern these towers? You might want to consult with the State Corporation Commission.
3. Some discussions with the Power Company and legal counsel would be most appropriate first.
4. This will be placed into our 2009 regulatory cycle of code issues along with the telephone and the poles in neighborhoods. Some regulatory and legislative options that come to mind would be a USBC permit exemption; adding standards for construction and inspections; and, lastly legislation exempting these structures.
5. If you arrive at the decision that they are covered and then advise the Power Company, there is the USBC appeals process for both parties to utilize.

-----Original Message-----

From: Mays, Eric M. [mailto:emays@pwccgov.org]  
Sent: Monday, August 11, 2008 4:17 PM  
To: Rodgers, Emory; Hodge, Vernon  
Subject: RE: Building Permit Required for Power Towers? (Addendum)

In the definition of structure it explicitly states, "radio tower, observation tower" but is a Transmission Tower similar or not?

-----Original Message-----

From: Mays, Eric M.  
Sent: Monday, August 11, 2008 3:42 PM  
To: emory.rodgers@dhcd.virginia.gov; vernon.hodge@dhcd.virginia.gov  
Subject: Building Permit Required for Power Towers?

Emory/Vernon:

I am hoping that you have already answered this question because of the situation in Hampshire County.

Does the electrical utility company have to obtain Building Permits/Inspections from the locality for towers associated with the high power transmission line?

I have a Board Member asking that question because of the Dominion Power Transmission Line proposed to go through Prince William County.

My first reaction was "no" because the tower is like a telephone pole in terms of its function; and the tower is owned/operated/maintained by the utility. However, looking at 102.3 Exemption #1 states, "...however, the structures, including their service equipment, housing or supporting such exempt equipment and wiring shall be subject to the USBC." By State Law, a tower is a "structure"; the tower supports the electrical transmission line; therefore, Building Permit required?

I appreciate your help/guidance on this one. This could be a can of worms.

Thanks,  
Eric

-----Original Message-----

From: Ferguson, Carol  
To: Griffin, Stephen K.  
Cc: Chambers, Scott A.; Ferguson, Carol; Ulrich, Karen S.; Black, Kevin P.  
Subject: Hampshire County Building Permit Fees/Power Towers

Would Dominion Power be required to pay building permit fees to

construct power line towers in Prince William County?

Many thanks,  
Carol Ferguson  
Office Assistant  
Gainesville District  
703-792-6195

=====  
County stands firm on tower fees

Wednesday, May 21, 2008 - MICHAEL O'BRIEN Review Correspondent

ROMNEY - Evidently, Allegheny Energy does not want to pay Hampshire County building permit fees for the massive power line towers that could be constructed in the county as part of the Trans-Allegheny Interstate Line (TrAIL) high-voltage power line project.

Allegheny Energy recently informed the county planning office the company has never been required to pay building permit fees for power line towers.

Hampshire County Commission President Donald P. Cookman said he wants Allegheny Energy to show good cause why they shouldn't pay the building permit fees.

Cookman said Allegheny Energy needs to document some type of "legal authority" to show why they believe they don't have to pay the fee.

Commissioner Steve Slonaker highlighted what he observed as the irony of Allegheny Energy's position.

Slonaker said the property owners in the county who face the prospect of having the Allegheny Energy towers constructed on their property have to pay building permit fees if they undertake any new construction on their property.

"So, why should the power company put a tower on that Hampshire County property owner's land and not have to get a building permit and pay the fee," Slonaker said.

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093122604

**HOUSE BILL NO. 2165**  
**AMENDMENT IN THE NATURE OF A SUBSTITUTE**  
(Proposed by the House Committee on Counties, Cities and Towns  
on January 30, 2009)

(Patron Prior to Substitute--Delegate Lohr)

*A BILL to amend the Code of Virginia by adding a section numbered 15.2-2288.01, relating to zoning; on-farm production of biofuels.*

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 15.2-2288.01 as follows:

*§ 15.2-2288.01. Localities shall not require a special use permit for certain small-scale conversion of biomass to alternative fuel.*

*A. As used in this section, unless the context requires a different meaning:*

*"Biomass" means agricultural-related materials including vineyard, grain or crop residues; straws; aquatic plants; and crops and trees planted for energy production.*

*"Small-scale conversion of biomass" means the conversion of any renewable biomass into heat, power, or biofuels.*

*B. A zoning ordinance shall not require that a special exception or special use permit be obtained for the small-scale conversion of biomass if: (i) at least 50 percent of the feedstock is produced either on site or by the owner of the conversion equipment; (ii) any structure used for the processing of the feedstock into energy occupies less than 4,000 square feet, not including the space required for storage of feedstock; and (iii) the owner of the farm notifies the administrative head of the locality in which the processing occurs. Localities may adopt reasonable requirements for setback, minimum lot area, and restrictions on the hours of operation and maximum noise levels applicable to the small-scale conversion of biomass. No setback, lot area, hours of operation or noise requirements may be more restrictive than similar provisions for other agricultural structures or activities.*

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Legislative Information System

## Rodgers, Emory

**From:** James Taylor [jamestaylor@floydcova.org]  
**Sent:** Monday, October 20, 2008 4:39 PM  
**To:** Rodgers, Emory  
**Subject:** RE: Farm use structure

Thank you, I will see if they have submitted the change of the Building Official. I will forward this to the Administrator for review.

Sincerely,

James Taylor  
Building Official  
Floyd County

---

**From:** Rodgers, Emory [mailto:Emory.Rodgers@dhcd.virginia.gov]  
**Sent:** Monday, October 20, 2008 9:57 AM  
**To:** James Taylor  
**Cc:** Hodge, Vernon; Wallace, Clinton; Brock, Larry; McMahan, Alan; Morris, Sandi  
**Subject:** RE: Farm use structure

1<sup>st</sup> congratulation of being appointed building official. Has Floyd sent to us your designation as the BO?

The law and USBC regulations are the same regarding farm buildings. There should have not been permitted the farm structure and yes you should say it was issued in error to the permit applicant. For the micro-brewery what are some of the factors provided to you? If there are farming operations occurring is one; is he growing the hops, barley, etc for the beer; and, is he going to do sampling. Your email seems to indicate he is doing these activities so it is most likely it qualifies as an exempt farm building and operation. How large of operation is this going to be and does he have plans for serving food to be a restaurant/bar?

---

**From:** James Taylor [mailto:jamestaylor@floydcova.org]  
**Sent:** Monday, October 20, 2008 9:38 AM  
**To:** Rodgers, Emory  
**Subject:** Farm use structure

Dear Mr. Rodgers,

Good morning, I am the new Floyd County Building Official. I have a question to ask DHCD. If the county issued a Farm Permit for a vegetable farm structure and he listed a micro-brewery on the permit, do we have any recourse on the permit? My concern is the people safety. There will be sampling room in this building that is 32x32. Also, all the surrounding neighbors all do not want this business beside them. I would have classified this as a mixed-use A-2 with an F-2 for the brewery which requires 2 hour fire protection. I was going to send a letter stating that a change of use would be required. But, when looking at the definitions of the Code of Virginia "Farm Structures" it allows rooms for sampling products. If he is growing some of the products on his land is this a legal farm permit structure? Also, I remember in code classes about a Winery that put a restaurant in a farm structure and had to comply with building codes. Do you have the case study on this? Can I issue a letter stating that the farm permit was issued in error per USBC 116.3? Then request the Brewery to obtain all permits necessary for a commercial building? Thank you for your time.

Sincerely,

James Taylor  
Building Official

10/21/2008

098413716

history | hilite | pdf

**HOUSE BILL NO. 2071**

Offered January 14, 2009

Prefiled January 13, 2009

*A BILL to amend and reenact § 15.2-2288.3 of the Code of Virginia, relating to licensed farm wineries.*-----  
Patrons-- Scott, E.T. and Lingamfelter  
-----Referred to Committee on Agriculture, Chesapeake and Natural Resources  
-----

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-2288.3 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-2288.3. Licensed farm wineries; local regulation of certain activities.

A. It is the policy of the Commonwealth to preserve the economic vitality of the Virginia wine industry while maintaining appropriate land use authority to protect the health, safety, and welfare of the citizens of the Commonwealth, and to permit the reasonable expectation of uses in specific zoning categories. Local restriction upon such activities and events of farm wineries licensed in accordance with Title 4.1 to market and sell their products shall be reasonable and shall take into account the economic impact on the farm winery of such restriction, *the agricultural nature of such activities and events*, and whether such activities and events are usual and customary for farm wineries throughout the Commonwealth. Usual and customary activities and events at farm wineries shall be permitted without local regulation unless there is a substantial impact on the health, safety, or welfare of the public. No local ordinance regulating noise, other than outdoor amplified music, arising from activities and events at farm wineries shall be more restrictive than that in the general noise ordinance. In authorizing outdoor amplified music at a farm winery, the locality shall consider the effect on adjacent property owners and nearby residents.

B, C. —Expired.]

D. No locality may treat private personal gatherings held by the owner of a licensed farm winery who resides at the farm winery or on property adjacent thereto that is owned or controlled by such owner at which gatherings wine is not sold or marketed and for which no consideration is received by the farm winery or its agents differently from private personal gatherings by other citizens.

E. No locality shall regulate any of the following activities of a farm winery licensed in accordance with subdivision 5 of § 4.1-207:

1. The production and harvesting of fruit and other agricultural products and the manufacturing of wine;
2. The on-premises sale, tasting, or consumption of wine during regular business hours within the normal course of business of the licensed farm winery;
3. The direct sale and shipment of wine by common carrier to consumers in accordance with Title 4.1 and regulations of the Alcoholic Beverage Control Board;
4. The sale and shipment of wine to the Alcoholic Beverage Control Board, licensed wholesalers, and out-of-state purchasers in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law;
5. The storage, warehousing, and wholesaling of wine in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law; or
6. The sale of wine-related items that are incidental to the sale of wine.

**HB 2071 Licensed farm wineries; restrictions on activities.**

Edward T. Scott | all patrons ... notes | add to my profiles

another bill?

*Summary as introduced:*

**Licensed farm wineries; restrictions on activities.** Adds the agricultural nature of activities and events to the list of factors for localities to consider when deciding whether or not such activities and events may be restricted on licensed farm wineries.

*Full text:*

01/13/09 House: Prefiled and ordered printed; offered 01/14/09 098413716 (impact statement)

*Status:*

01/13/09 House: Prefiled and ordered printed; offered 01/14/09 098413716  
01/13/09 House: Referred to Committee on Agriculture, Chesapeake and Natural Resources  
01/21/09 House: Reported from Agriculture, Chesapeake and Natural Resources (21-Y 0-N)  
01/22/09 House: Read first time  
01/23/09 House: Read second time and engrossed  
01/26/09 House: Read third time and passed House BLOCK VOTE (98-Y 0-N)  
01/26/09 House: VOTE: BLOCK VOTE PASSAGE (98-Y 0-N)  
01/27/09 Senate: Constitutional reading dispensed  
01/27/09 Senate: Referred to Committee on Local Government

## Rodgers, Emory

**From:** Rodgers, Emory  
**Sent:** Friday, July 04, 2008 11:00 AM  
**To:** Mays, Eric M.; Hodge, Vernon  
**Cc:** Adkins, Robert H.; Shahrzad, Siavash; Jackson, Raymond E.; Collins, James L.; D'Antonio, Marianne D.; Khan, Jahangir  
**Subject:** RE: Portable Stage Question

As in my 1st thoughts, am looking at one right now with the US Army Band on it at 4th event in Ohio. The trailer has license but the rigging is a stage and has power hook ups etc that electrical permit probably necessary usually with a generator as one seen today. Might be considered an industrialized building but again will huddle with staff for final opinion.

---

**From:** Mays, Eric M. [mailto:emays@pwcgov.org]  
**Sent:** Thu 7/3/2008 3:24 PM  
**To:** Rodgers, Emory; Hodge, Vernon  
**Cc:** Adkins, Robert H.; Shahrzad, Siavash; Jackson, Raymond E.; Collins, James L.; D'Antonio, Marianne D.; Khan, Jahangir  
**Subject:** Portable Stage Question

Emory/Vernon:

Do you have an opinion on whether or not this type of stage/trailer is regulated by the Building Code? It has VA License Tag.

Thanks,  
Eric

---

**From:** Adkins, Robert H.  
**Sent:** Thursday, July 03, 2008 2:50 PM  
**To:** Mays, Eric M.; Shahrzad, Siavash; Jackson, Raymond E.  
**Cc:** Bedford, Kenny S.; Clark, Tom D. (Bldg Development); Dolan, Michael F.; Jackson, Charles A.; Roop, Chad A.  
**Subject:** Emailing: stageline\_sl100.htm

Does this product fall under the building code? It is a licensed road vehicle. We had inspection on one today.  
Bob



[Français](#)

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instead of  
buying ?**



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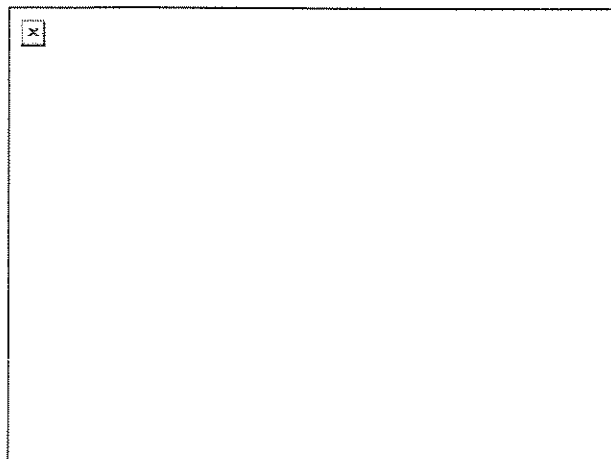
[SL250 New Generation](#)


[SL320](#)

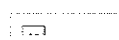
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The only all-aluminium mobile unit featuring a fully hydraulic stage set-up.  
Unit offering a total rigging capacity of 5,400 lbs (2,450 kg) and strong enough to raise the roof loaded with 3,800 lbs (1,725 kg) of sound, lights, banners and sets. Multiple deck configurations ranging from band-shell to a full professional-sized stage. Tows with standard pickup truck.



 Faster and easier to operate



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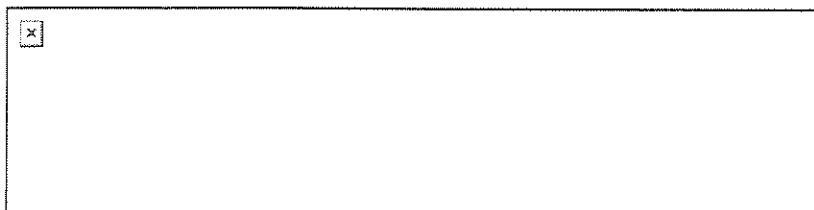
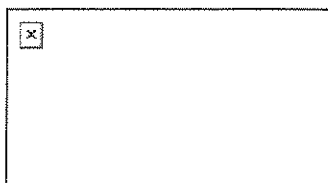


Photo Jan Thijs

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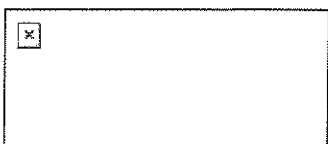
**STEP 1**



Level the trailer and lower the floor panels.

Easy hydraulic operations.

**STEP 2**



Install sound, lighting equipment and banners at ground level. Attach up to 3,800 lbs to standard 2" tube trussing in roof (1,725 kg to 50 mm tubing).

**STEP 3**



Raise the roof using the hydraulic double-mast lifting mechanism.



Courtesy of The Spark Agency



## Rodgers, Emory

**From:** Underwood, Lynn [lynn.underwood@norfolk.gov]  
**Sent:** Wednesday, September 10, 2008 8:46 AM  
**To:** Rodgers, Emory  
**Cc:** Woods, Vernell; Duke, Frank  
**Subject:** RE: 2009 USBC/SFPC related regulations Administrative and legislative issues

Emory,

I would like to suggest an exception to item #7 that came up in EOC meeting yesterday. During disaster recovery, several aid agencies such as Red Cross erect tents to provide assistance. In some cases first aid medical assistance is provided as well. I would like to suggest a general exception that exempts all permits for these structures within 30 days after a disaster event for agencies providing services to victims. How would I go about doing that? Thanks.

Lynn Underwood, C.B.O.  
664-6511 office  
641-7275 cell

---

**From:** Rodgers, Emory [mailto:Emory.Rodgers@dhcd.virginia.gov]  
**Sent:** Tuesday, September 09, 2008 3:46 PM  
**To:** Art Dahlberg (E-mail); Altizer, Ed (VDFP); Hodge, Vernon; Wallace, Clinton; Brock, Larry; Eubank, Paula; Reynolds, Ron (VDFP); John Glover; Dean, Glenn (VDFP); Cheri Hainer; Clements, Ron; Witt, Rick; Underwood, Lynn; Lewis Watts; Stan Massie; Julie Walton; John Walsh; Jeff.Shawver@roanokeva.gov  
**Cc:** Robert Smalley; John.Catlett@alexandriava.gov; Mike Toalson; Payne, Kenney; Bill Dupler; Duncan Abernathy; Wilson, Andrew; Mays, Eric M.; Shahriar Amiri; Francis, Sam; Matthew Stanley; Bartell, Richard; Dawson, Robbie  
**Subject:** 2009 USBC/SFPC related regulations Administrative and legislative issues

All: This work group will be WG 2 and meeting scheduled March 19<sup>th</sup> here at DHCD 9:30 board room 1<sup>st</sup> floor. By then should have good idea of most all chapter 1, definitions, and legislative issues for the 2009 regulatory cycle? Here is list of items from WG 2 meeting September 9<sup>th</sup>, 2008 that was essentially informational. Some items have been deleted and some added. Unless directed to do otherwise, have a nice 2008. Thanks for those attending the September 9<sup>th</sup> meeting.

# DEPT. OF HOUSING AND COMMUNITY DEVELOPMENT REGULATORY CHANGE FORM

<p>Address to submit to:</p> <p>DHCD, the Jackson Center 501 North Second Street Richmond, VA 23219-1321</p> <p>Tel. No. (804) 371 – 7150 Fax No. (804) 371 – 7092 Email: bhcd@dhcd.state.va.us</p>	<p><b>Last revised 2/19/2009</b></p>	<p>Document No. _____</p> <p>Committee Action: _____</p> <p>BHCD Action: _____</p>
<p>Submitted by: <b>Chuck Bajnai</b> Representing: <b>Chesterfield County</b> Address: <b>9800 Government Parkway, Chesterfield, VA 23832</b> Phone No.: <b>(804) 717-6428</b> Regulation Title: <b>2006 IRC</b></p> <p><b>VCC, Section 103.2 Application of Code</b></p>		

## Proposed Change:

**103.2. When applicable to new construction.** The effective date for the technical changes of this document will be one year after it is approved by the BHCD. Construction for which a permit application is submitted to the local building department after May 1 2008 the effective date shall comply with the provisions of this code. Prior to the effective date, if the applicant requests the building be reviewed under the new code, the building official will be permitted to allow such a request. ~~except for permit applications submitted during a one-year period after May 1, 2008. The applicant for a permit during such one-year period shall be permitted to choose whether to comply with the provisions of this code or the provisions of the code in effect immediately prior to May 1, 2008...."~~

## Supporting Statement:

### 1. Recent history

The 2000 VCC:

"Construction for which a permit application is submitted to the building official after October 1, 2003 shall comply with the provisions of this code, except when construction documents for proposed construction were *substantially complete* prior to the above date and a permit application is submitted to the building official within one year after the above date. In such cases, construction shall comply with either the provisions of this code or the provisions of the code in effect immediately prior to October 1, 2003...."

The 2003 and 2006 VCC eliminated the "substantially complete" concept and opted for a one-year, across the board, grace period.

### 2. Problem

The problems with the 2006 VCC are:

1. The forty-five days between the approval date and effective date for the 2006 VCC was insufficient for training.
2. The one-year grace period puts all parties in limbo for twelve months and in many cases, may create double work.

### 3. Discussion

The following points should be noted:

1. I am not suggesting that the one-year grace period was too long or too short --it has nothing to do with the real issue in this proposal. If the BHCD wants to amend my proposal to 6 months, 9 months, or anything else that serves them well is acceptable. I wrote it for 12 months because that has been the historical precedence.
2. Concerning Problem 1 above:  
For past code cycles, it has always felt that there was a rush to get the building officials and their staffs through the required training. Even with all the advanced publications and hearings in 2007, it took until late August, 2008 for BHCD to prepare the training classes and to get all of the building officials and their staffs through required code update/webcast training. Beyond that it took several months for many individual municipalities to prepare and teach contractor update classes. Forty-five day period between the approval and the effective date seems rushed and maybe not too practical.
3. Concerning Problem 2 above:
  - A. Since new codes typically ratchet up the construction requirements/quality (seldom reducing the requirements), contractors usually default to the older, less strict, cheaper code requirements. This one-year delay allows them to postpone the inevitable. If this is what the BHCD wants, OK!  
  
Our experience was that less than .5% of the houses were built to the new code during the past grace period. Likewise we had only two of our two hundred master plans updated after we warned them of the pending dates.
  - B. But this puts the Building Inspection Department into a precarious situation: If the plan reviewers assume the plans are built to the new code, and reject the plans for non-compliance (simple example: R-38 roof insulation), the contractors typically come back and ask that the building be reviewed under the old code (R-30) -- then the plan reviewers have to do their work twice. This has historically been the trend and puts the plan reviewer in a bad position.
  - C. We have tried administrative solutions to cut off this problem before it starts. Our customer service reps have been trained to ask the submitter which code the plans are going to be submitted under, but many plans are couriered to the office and the courier is clueless. Other times there are coordination errors between what code the plans say and what code the applicant says: The contractor's application might say 2003 IRC and the plans specifically say "these plans are designed to the 2006 IRC" -- which is correct? What code does the plan reviewer use for his review?

### 4. Solution

The suggested revision establishes the old code as the default code for twelve months after approval by the BHCD. It builds into the system a one-year period (but could be changed if the BHCD wants) for the architects, designers, engineers, contractors, sub-contractors, suppliers, building officials, plan reviewers and inspectors to get accustomed to the new changes and purchase their new code books. It still would allow the submitter to use the newer code if he/she finds it advantageous.

REQUEST FOR INTERPRETATION

TO: OFFICE OF THE STATE BUILDING CODE TECHNICAL REVIEW BOARD  
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
The Jackson Center  
501 North Second Street  
Richmond, Virginia 23219-1321  
(804) 371-7180

FROM:

Terry Fellingner - Code Enforcement Officer

SPOTSWYLVANIA COUNTY

10304 Spotsylvania Ave Suite 400 Fredericksburg Va 2240

Phone:

540-507-7250

Code:

U.S.B.C. 2003 Edition

Section(s)

104.1

Submitted by (signature)

Terry L. Fellingner

Date:

14 Mar 08

Question : In jurisdictions that have not adopted part III ,The Virginia Maintenance Code, of the Uniform Statewide Building Code does Section 104.1 in part I ,The Virginia Construction Code, give them the authority to investigate complaints that are immediate and imminent threat to the health and safety from "any source," on residential dwelling units or nearby residential dwelling units rather than just complaints by a tenant of a residential rental unit that is subject of such complaint ?

**103.13 State buildings and structures.** This section establishes the application of the USBC to state-owned buildings and structures in accordance with Section 36-98.1 of the Code of Virginia. The USBC shall be applicable to all state-owned buildings and structures, with the exception that Sections 2.2-1159, 2.2-1160 and 2.2-1161 of the Code of Virginia shall provide the standards for ready access to and use of state-owned buildings by the physically handicapped.

Any state-owned building or structure for which preliminary plans were prepared or on which construction commenced after the initial effective date of the USBC, shall remain subject to the provisions of the USBC that were in effect at the time such plans were completed or such construction commenced. Subsequent reconstruction, renovation or demolition of such building or structure shall be subject to the pertinent provisions of this code.

Acting through the Division of Engineering and Buildings, the Virginia Department of General Services shall function as the building official for state-owned buildings. The Department shall review and approve plans and specifications, grant modifications, and establish such rules and regulations as may be necessary to implement this section. It shall provide for the inspection of state-owned buildings and enforcement of the USBC and standards for access by the physically handicapped by delegating inspection and USBC enforcement duties to the State Fire Marshal's Office, to other appropriate state agencies having needed expertise, and to local building departments, all of which shall provide such assistance within a reasonable time and in the manner requested. State agencies and institutions occupying buildings shall pay to the local building department the same fees as would be paid by a private citizen for the services rendered when such services are requested by the Department. The Department may alter or overrule any decision of the local building department after having first considered the local building department's report or other rationale given for its decision. When altering or overruling any decision of a local building department, the Department shall provide the local building department with a written summary of its reasons for doing so.

Notwithstanding any provision of this code to the contrary, roadway tunnels and bridges owned by the Virginia Department of Transportation shall be exempt from this code. The Virginia Department of General Services shall not have jurisdiction over such roadway tunnels, bridges and other limited access highways; provided, however, that the Department of General Services shall have jurisdiction over any occupied buildings within any Department of Transportation rights-of-way that are subject to this code.

Except as provided in Section 23-38.109 D of the Code of Virginia, and notwithstanding any provision of this code to the contrary, at the request of a public institution of higher education, the Virginia Department of General Services, as further set forth in this provision, shall authorize that institution of higher education to contract with a building official of the locality in which the construction is taking place to perform any inspection and certifications required for the purpose of complying with this code. The Department shall publish administrative procedures that shall be followed in contracting with a building official of the locality. The authority granted to a public institution of higher education under this provision to contract with a building official of the locality shall be subject to the institution meeting the conditions prescribed in Section 23-38.88 B of the Code of Virginia.

**Note:** In accordance with Section 36-98.1 of the Code of Virginia, roadway tunnels and bridges shall be designed, constructed and operated to comply with fire safety standards based on nationally recognized model codes and standards to be developed by the Virginia Department of Transportation in consultation with the State Fire Marshal and approved by the Virginia Commonwealth Transportation Board. Emergency response planning and activities related to the standards approved by the Commonwealth Transportation Board shall be developed by the Department of Transportation and coordinated with the appropriate local officials and emergency service providers. On an annual basis, the Department of Transportation shall provide a report on the maintenance and operability of installed fire protection and detection systems in roadway tunnels and bridges to the State Fire Marshal.

## SECTION 104 ENFORCEMENT, GENERALLY

**104.1 Scope of enforcement.** This section establishes the requirements for enforcement of the USBC in accordance with Section 36-105 of the Code of Virginia. Enforcement of the provisions of the USBC for construction and rehabilitation shall be the responsibility of the local building department. Whenever a county or municipality does not have such a building department, the local governing body shall enter into an agreement with the local governing body of another county or municipality or with some other agency, or a state agency approved by DHCD for such enforcement. For the purposes of this section, towns with a population of less than 3,500 may elect to administer and enforce the USBC; however, where the town does not elect to administer and enforce the code, the county in which the town is situated shall

administer and enforce the code for the town. In the event such town is situated in two or more counties, those counties shall administer and enforce the USBC for that portion of the town which is situated within their respective boundaries.

Upon a finding by the local building department, following a complaint by a tenant of a residential rental unit that is the subject of such complaint, that there may be a violation of the unsafe structures provisions of Part III of the Virginia Uniform Statewide Building Code, also known as the "Virginia Maintenance Code," the local building department shall enforce such provisions.

If the local building department receives a complaint that a violation of the Virginia Maintenance Code exists that is an immediate and imminent threat to the health or safety of the owner or tenant of a residential dwelling unit or a nearby residential dwelling unit, and the owner or tenant of the residential dwelling unit that is the subject of the complaint has refused to allow the local building official or his agent to have access to the subject dwelling, the local building official or his agent may present sworn testimony to a court of competent jurisdiction and request that the court grant the local building official or his agent an inspection warrant to enable the building official or his agent to enter the subject dwelling for the purpose of determining whether violations of the Virginia Maintenance Code exist. The local building official or his agent shall make a reasonable effort to obtain consent from the owner or tenant of the subject dwelling prior to seeking the issuance of an inspection warrant under this section.

The local governing body shall inspect and enforce the provisions of the Virginia Maintenance Code for elevators except for elevators in single and two-family homes and townhouses. Such inspection and enforcement shall be carried out by an agency or department designated by the local governing body.

**104.2 Interagency coordination.** When any inspection functions under this code are assigned to a local agency other than the local building department, such agency shall coordinate its reports of inspection with the local building department.

**104.3 Transfer of ownership.** If the local building department has initiated an enforcement action against the owner of a building or structure and such owner subsequently transfers the ownership of the building or structure to an entity in which the owner holds an ownership interest greater than 50%, the pending enforcement action shall continue to be enforced against the owner.

## SECTION 105 LOCAL BUILDING DEPARTMENT

**105.1 Appointment of building official.** Every local building department shall have a building official as the executive official in charge of the department. The building official shall be appointed in a manner selected by the local governing body. After permanent appointment, the building official shall not be removed from office except for cause after having been afforded a full opportunity to be heard on specific and relevant charges by and before the appointing authority. DHCD shall be notified by the appointing authority within 30 days of the appointment or release of a permanent or acting building official.

**Note:** Building officials are subject to sanctions in accordance with the VCS.

**105.1.1 Qualifications of building official.** The building official shall have at least five years of building experience as a licensed professional engineer or architect, building, fire or trade inspector, contractor, housing inspector or superintendent of building, fire or trade construction or at least five years of building experience after obtaining a degree in architecture or engineering, with at least three years in responsible charge of work. Any combination of education and experience that would confer equivalent knowledge and ability shall be deemed to satisfy this requirement. The building official shall have general knowledge of sound engineering practice in respect to the design and construction of structures, the basic principles of fire prevention, the accepted requirements for means of egress and the installation of elevators and other service equipment necessary for the health, safety and general welfare of the occupants and the public. The local governing body may establish additional qualification requirements.

**105.1.2 Certification of building official.** An acting or permanent building official shall be certified as a building official in accordance with the VCS within one year after being appointed as acting or permanent building official.

**Exception:** A building official in place prior to April 1, 1983, shall not be required to meet the certification requirements in this section while continuing to serve in the same capacity in the same locality.

**§ 36-105. Enforcement of Code; appeals from decisions of local department; inspection of buildings; inspection warrants; inspection of elevators.**

A. Enforcement generally. Enforcement of the provisions of the Building Code for construction and rehabilitation shall be the responsibility of the local building department. There shall be established within each local building department a local board of Building Code appeals whose composition, duties and responsibilities shall be prescribed in the Building Code. Appeals from the local building department concerning application of the Building Code or refusal to grant a modification to the provisions of the Building Code shall first lie to the local board of Building Code appeals. No appeal to the State Building Code Technical Review Board shall lie prior to a final determination by the local board of Building Code appeals. Whenever a county or a municipality does not have such a building department or board of Building Code appeals, the local governing body shall enter into an agreement with the local governing body of another county or municipality or with some other agency, or a state agency approved by the Department for such enforcement and appeals resulting therefrom. For the purposes of this section, towns with a population of less than 3,500 may elect to administer and enforce the Building Code; however, where the town does not elect to administer and enforce the Building Code, the county in which the town is situated shall administer and enforce the Building Code for the town. In the event such town is situated in two or more counties, those counties shall administer and enforce the Building Code for that portion of the town which is situated within their respective boundaries. Fees may be levied by the local governing body in order to defray the cost of such enforcement and appeals.

B. New construction. Any building or structure may be inspected at any time before completion, and shall not be deemed in compliance until approved by the inspecting authority. Where the construction cost is less than \$2,500, however, the inspection may, in the discretion of the inspecting authority, be waived. A building official may issue an annual permit for any construction regulated by the Building Code. The building official shall coordinate all reports of inspections for compliance with the Building Code, with inspections of fire and health officials delegated such authority, prior to issuance of an occupancy permit.

C. Existing buildings and structures.

1. Inspections and enforcement of the Building Code. The local governing body may also inspect and enforce the provisions of the Building Code for existing buildings and structures, whether occupied or not. Such inspection and enforcement shall be carried out by an agency or department designated by the local governing body.

2. Complaints by tenants. However, upon a finding by the local building department, following a complaint by a tenant of a residential dwelling unit that is the subject of such complaint, that there may be a violation of the unsafe structures provisions of the Building Code, the local

building department shall enforce such provisions.

3. Inspection warrants. If the local building department receives a complaint that a violation of the Building Code exists that is an immediate and imminent threat to the health or safety of the owner or tenant of a residential dwelling unit or a nearby residential dwelling unit, and the owner or tenant of the residential dwelling unit that is the subject of the complaint has refused to allow the local building official or his agent to have access to the subject dwelling, the local building official or his agent may present sworn testimony to a magistrate or a court of competent jurisdiction and request that the magistrate or court grant the local building official or his agent an inspection warrant to enable the building official or his agent to enter the subject dwelling for the purpose of determining whether violations of the Building Code exist. The local building official or his agent shall make a reasonable effort to obtain consent from the owner or tenant of the subject dwelling prior to seeking the issuance of an inspection warrant under this section.

4. Transfer of ownership. If the local building department has initiated an enforcement action against the owner of a building or structure and such owner subsequently transfers the ownership of the building or structure to an entity in which the owner holds an ownership interest greater than 50%, the pending enforcement action shall continue to be enforced against the owner.

D. Elevator inspections. The local governing body shall, however, inspect and enforce the Building Code for elevators, except for elevators in single- and two-family homes and townhouses. Such inspection shall be carried out by an agency or department designated by the local governing body.

(1972, c. 829; 1974, c. 433; 1977, cc. 423, 613; 1978, c. 578; 1981, c. 498; 1982, c. 267; 1992, c. 73; 1993, c. 328; 1994, cc. 214, 256, 574; 1995, cc. 95, 523, 702, 827; 1999, cc. 333, 341; 2001, c. 119; 2002, c. 720; 2003, c. 650; 2004, c. 851; 2006, c. 424; 2007, c. 291.)

**Cross references.** - As to inspection of boiler or pressure vessels, see § 40.1-51.15:1.

**Editor's note.** - Acts 2004, c. 851, cl. 2, provides: "That any local rental inspection ordinances adopted on or before July 1, 2004, shall be brought into compliance with the requirements of § 36-105.1:1 of this act by July 1, 2005."

**The 1995 amendments.** - The 1995 amendment by c. 95 added the third sentence of the next-to-last paragraph.

The 1995 amendment by c. 523 substituted "less than \$2,500" for "less than \$1,000" near the middle of the second paragraph.

The 1995 amendments by cc. 702 and 827 are identical, and inserted "or in other areas designated as blighted pursuant to § 36-49.1:1" following "by the local governing body" near the middle of the first

**VIRGINIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
CODE CHANGE FORM**

Address to submit to:

DHCD, The Jackson Center  
501 North Second Street  
Richmond, VA 23219-1321

Tel. No. (804) 371 - 7150  
Fax No. (804) 371 - 7092  
Email: bhcd@dhcd.virginia.gov

Document No. \_\_\_\_\_

Committee Action: \_\_\_\_\_

BHCD Action: \_\_\_\_\_

Submitted by: State Building Code Technical Review Board

Address: \_\_\_\_\_ Phone No. \_\_\_\_\_

Regulation Title: USBC, Virginia Construction Code Section No(s): 106.2

Date Submitted: November 21, 2008

Proposed Change:

Change Section 106.2 to read:

106.2 Delegation of authority. The building official may delegate powers and duties ~~except where such authority is limited by the local government~~. When such delegations are made, the building official shall be responsible for assuring that they are carried out in accordance with the provisions of this code.

Exception: The local government may impose limitations on the delegation of powers and duties in all delegations other than third party inspector programs under Sections 113.7, 113.7.1 and 113.7.2.

Supporting Statement:

This change is to clarify that the third party inspector program provisions implemented in the 2006 code were intended to authorize the building official to establish the criteria for the approval of third-party inspectors, without a local government dictating a differing policy. The change stems from a court decision concerning an appeal of a local government's mandate that all third-party inspectors be architects or engineers, where the court held that the wording in existing Section 106.2 did in fact authorize the local government to mandate a different policy from that established by the building official.

**VIRGINIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
CODE CHANGE FORM**

<p>Address to submit to:</p> <p>DHCD, The Jackson Center 501 North Second Street Richmond, VA 23219-1321</p> <p>Tel. No. (804) 371 - 7150 Fax No. (804) 371 - 7092 Email: bhcd@dhcd.virginia.gov</p>		<p>Document No. _____</p> <p>Committee Action: _____</p> <p>BHCD Action: _____</p>
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Submitted by: State Building Code Technical Review Board

Address: \_\_\_\_\_ Phone No. \_\_\_\_\_

Regulation Title: USBC, Virginia Construction Code      Section No(s): 106.2

Date Submitted: July 30, 2007

Proposed Change:

Change Section 106.2 to read:

106.2 Delegation of authority. The building official may delegate powers and duties except where such authority is limited by the local government. However, such limitations of authority by the local government shall not be permitted to have the effect of altering the provisions of this code or creating building regulations. When such delegations are made, the building official shall be responsible for assuring that they are carried out in accordance with the provisions of this code.

Supporting Statement:

This clarification is needed to give guidance to local governments when limiting the delegation of powers and duties by the building official to legitimate interests of the local government, such as the number of technical assistants employed by the building department, the salaries of such assistants and other matters relating to internal human resources types of issues, as well as decisions such as whether to have agreements with other local governments to provide services. As currently written, the provision can be misconstrued to enable a local government to change the provisions of the USBC or to supersede policies of a building official relative to third party inspector approval, expedited plan review, minimum inspections, approval of permits, modifications and many other functions of the building official addressed in other sections of the USBC.

## Rodgers, Emory

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**From:** Rodgers, Emory  
**Sent:** Sunday, August 03, 2008 1:31 PM  
**To:** Hodge, Vernon; Gregory, Eric  
**Cc:** Nesbitt, Thomas W.; Eubank, Paula  
**Subject:** RE: Culpeper Co. v. SBCTRB

Works for me and will start discussions with VBCOA September 9th when we review the 2008 legislation and other administrative matters.

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**From:** Hodge, Vernon  
**Sent:** Sat 8/2/2008 2:26 PM  
**To:** Gregory, Eric  
**Cc:** Nesbitt, Thomas W.; Rodgers, Emory; Eubank, Paula  
**Subject:** RE: Culpeper Co. v. SBCTRB

It appears that the Court relied on the provision in the USBC which permits the local governing body to limit the delegation of authority. We'll submit a proposal to the Board of Housing that this provision does not apply to the establishment of third party inspector policies (As a matter of fact, we did that in the last round of proposals, but Fairfax County commented that it wasn't necessary, so the Board took no action on it.).

Vernon Hodge, Technical Services Manager  
Technical Assistance Services Office (TASO)  
Division of Building and Fire Regulations  
Va. Department of Housing and Community Development  
Direct Dial: (804) 371-7174  
Email: [Vernon.Hodge@DHCD.virginia.gov](mailto:Vernon.Hodge@DHCD.virginia.gov)  
Blackberry: (804) 382-2973

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**From:** Gregory, Eric [<mailto:EGregory@oag.state.va.us>]  
**Sent:** Friday, August 01, 2008 2:59 PM  
**To:** Hodge, Vernon  
**Cc:** Nesbitt, Thomas W.  
**Subject:** Culpeper Co. v. SBCTRB

Vernon,

The Court of Appeals reversed and remanded so that is unfortunate. See <http://www.courts.state.va.us/opinions/opncavwp/2725074.pdf> and attached. You can discuss it with Tom and if I can assist with anything, I'm happy to do so. Rehearing en banc? Appeal to Supreme Court?

Eric

\* Please note new telephone/fax #s below.

Eric A. Gregory  
Assistant Attorney General II  
Office of the Attorney General  
900 East Main Street  
Richmond, Virginia 23219  
Tel.: (804) 225-3193  
Fax: (804) 371-8718  
E-mail: [egregory@oag.state.va.us](mailto:egregory@oag.state.va.us)

COURT OF APPEALS OF VIRGINIA

Present: Judges Clements, Kelsey and Senior Judge Annunziata  
Argued at Alexandria, Virginia

BOARD OF SUPERVISORS OF CULPEPER  
COUNTY, VIRGINIA, AND ROBERT P. ORR, III

v. Record No. 2725-07-4

OPINION BY  
JUDGE D. ARTHUR KELSEY  
JULY 29, 2008

THE STATE BUILDING CODE TECHNICAL  
REVIEW BOARD, RANDOLPH W. GRIFFITH  
AND GRIFFITH GROUP, LTD.

FROM THE CIRCUIT COURT OF CULPEPER COUNTY  
John R. Cullen, Judge

Roy B. Thorpe, Jr. (John D. Maddox; Office of the Culpeper  
County Attorney, on briefs), for appellants.

Eric A. Gregory, Assistant Attorney General (Robert F.  
McDonnell, Attorney General; Steven P. Jack, Assistant  
Attorney General; Thomas W. Nesbitt, Assistant Attorney  
General, on briefs), for appellee The State Building Code  
Technical Review board.

No brief or argument for appellees Randolph W. Griffith and  
Griffith Group, Ltd.

In this administrative appeal, the Culpeper County Board of Supervisors argues that the circuit court erroneously affirmed a case decision by the State Building Code Technical Review Board. The Technical Review Board held that the Board of Supervisors had no authority to set qualifications standards for third-party inspectors under the Virginia Uniform Statewide Building Code (USBC). Agreeing that the circuit court erred, we reverse its judgment and remand the case for entry of a final order vacating the Technical Review Board's case decision.

I.

In 1991, the Culpeper County Board of Supervisors adopted a resolution requiring all private inspectors retained by the county (referred to as third-party inspectors) to perform inspections on behalf of the county's local building official to be qualified engineers or architects

licensed by the Commonwealth. William R. Myers became the County Building Official in 1998. Unaware of the county's resolution, Myers authorized third-party inspectors to perform work for the county without being qualified as licensed engineers or architects. In 2003, Randolph W. Griffith (a former county building official, but not a licensed engineer or architect) requested that Myers certify him as a third-party inspector. Griffith knew of the county's 1991 resolution but did not advise Myers of it.

After he had certified Griffith, Myers learned of the county's certification requirements. Myers asked the Board of Supervisors to again review its certification policy. In response, the Board of Supervisors reaffirmed its existing policy of requiring all third-party inspectors for the county to be licensed engineers or architects. Myers independently researched the issue and discovered that, of the six Virginia localities using third-party inspectors, each locality had a similar policy. Myers adopted the certification policy and decertified Griffith as a third-party inspector.

Griffith appealed his decertification to the local board of building code appeals, which affirmed Myers's decision to decertify Griffith. Griffith then appealed to the Technical Review Board. Griffith argued that the Board of Supervisors had no authority to set certification policies for third-party inspectors. Only Myers could make that decision, Griffith contended. While it might look like Myers made his own decision in this regard, Griffith added, in fact Myers merely followed the directive of the Board of Supervisors. In its final case decision, the Technical Review Board agreed with Griffith and set aside his decertification.

The Board of Supervisors and Myers appealed the Technical Review Board's case decision to the circuit court under the Virginia Administrative Process Act (VAPA), Code § 2.2-4000 *et seq.* The circuit court dismissed the petition for appeal and affirmed the Technical Review Board's decision.

## II.

The Board of Supervisors and Robert P. Orr, III (Myers's successor as Building Official) appeal the circuit court's decision to us on the ground that the circuit court, like the Technical Review Board, erred as a matter of law in concluding the Board of Supervisors had no authority to establish the certification policy for third-party inspectors doing work for the county.<sup>1</sup>

We begin our analysis by examining the structure of the governing law. In 1972, the General Assembly directed the State Board of Housing, now the Board of Housing and Community Development (the Housing Board), to adopt a Uniform Statewide Building Code (USBC). Avalon Assisted Living Facilities v. Zager, 39 Va. App. 484, 496, 574 S.E.2d 298, 304 (2002) (citing Code §§ 36-98, 36-131 & 36-135); see 1972 Va. Acts, ch. 829. The legislature intended the Housing Board to give due regard to “generally accepted standards” recommended by nationally recognized organizations. Code § 36-99(B).

Under its enabling legislation, the Housing Board may modify, amend, or repeal any USBC provision after complying with the notice and hearing requirements of Code § 36-100. See Code § 36-102. These requirements include notice to every “building official” in the Commonwealth and, “where none, the local governing body of every city or county in the Commonwealth.” Code § 36-100. “At any such hearing all persons desiring to do so shall be afforded an opportunity to present their views.” Id.<sup>2</sup>

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<sup>1</sup> Given our holding, we need not decide whether the Technical Review Board improperly entertained the appeal from the local board of building code appeals. Cf. Board of Sup. of Fairfax County v. Miller & Smith, Inc., 222 Va. 230, 234-35, 279 S.E.2d 158, 160-61 (1981), with Strawbridge & State Bldg. Code Tech. Rev. Bd. v. County of Chesterfield, 23 Va. App. 493, 498, 477 S.E.2d 789, 792 (1996).

<sup>2</sup> In 2006, the General Assembly amended Code § 36-100 (along with Code § 2.2-4006(A)(13)) to exempt the process from the Virginia Administrative Process Act, Code § 2.2-4000 *et seq.* See 2006 Va. Acts, ch. 719.

The General Assembly delegated responsibility for enforcement of the USBC to the “local building department,” Code § 36-105(A), defined as “the agency or agencies of any local governing body charged with the administration, supervision or enforcement” of the USBC. Code § 36-97. Each local government must establish a local building department along with a “local board of Building Code Appeals” (the local appeals board) or enter into an agreement with some other locality or state agency to perform these roles. Code § 36-105(A). A party dissatisfied with a local department’s application of the USBC may appeal to the local appeals board. *Id.* A further appeal may be taken from the local appeals board to the Technical Review Board. *See* Code §§ 36-105, 36-114.

In promulgating the USBC, the Housing Board “incorporated by reference the majority of the BOCA National Building Code,” Avalon Assisted Living Facilities, 39 Va. App. at 497, 574 S.E.2d at 304 (citations omitted), and has since incorporated the technical provisions of the International Building Code.<sup>3</sup> One of the USBC’s administrative provisions recognizes that the local building code official may outsource some of his duties to private third parties. “The building official is permitted to delegate duties and powers subject to any limitations imposed by the locality and shall be responsible for assuring that delegated duties and powers are carried out in accordance with the USBC.” USBC § 109.3 (2000 ed.).<sup>4</sup> Section 104.2.2 also recognized the locality’s authority to “establish additional qualification requirements” for county employees assisting the building official.

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<sup>3</sup> In 2003, the Housing Board repealed the USBC and used the International Code Council’s 2000 International Building Code (IBC) to form the USBC (2000 ed.). 13 Va. Admin. Code § 5-62-10 *et seq.* The USBC has since been repealed and recodified based on the ICC’s 2006 IBC. *See* 13 Va. Admin. Code § 5-63-10 *et seq.* General section references contained in this opinion refer to the 2000 edition of the USBC made effective October 1, 2003.

<sup>4</sup> This provision is currently codified at USBC § 106.2 (2006 ed.). Under the current provision: “The building official may delegate powers and duties *except where such authority is limited by the local government. . . .*” 13 Va. Admin. Code § 5-63-60(B) (emphasis added).

In our case, the Technical Review Board considered these provisions but nonetheless held the Board of Supervisors had no authority under USBC § 109.3 to impose certification qualifications on third-party inspectors. Despite the clause in USBC § 109.3 subjecting the building official's delegation of duties to "any limitations imposed by the locality," the Technical Review Board held that language could not be taken at face value because it would conflict with USBC § 115.8.1. That regulation authorized the building official to "accept reports of inspections and tests from approved individuals or approved inspection agencies, which satisfy qualifications and reliability requirements." USBC § 115.8.1 (2000 ed.).

We find the Technical Review Board's reasoning, as well as the circuit court's endorsement of it, to be plainly wrong. USBC § 109.3 authorized the locality to impose "any limitation" it chose on the delegation by its building official of his duties to third-party inspectors. The Board of Supervisors chose to limit the delegation to certified engineers and architects. USBC § 115.8.1 merely authorized the county building official to accept inspection reports from "approved" inspectors satisfying the necessary "qualifications and reliability requirements." Nothing in § 115.8.1 contradicted § 109.3. To be sure, the two provisions complemented each other. Section 109.3 gave the locality the ultimate authority to establish criteria for who may act as a delegate of the building official's authority. Section 115.8.1, on the other hand, merely confirmed that the building official may accept inspection reports from approved inspectors and said nothing about delegating his authority to any third party.

The circuit court nonetheless deferred to the Technical Review Board's reasoning, correctly noting that courts give "great deference" to an agency's interpretation of its own regulations. See Holtzman Oil Corp. v. Commonwealth, 32 Va. App. 532, 539, 529 S.E.2d 333, 337 (2000). This deference stems from Code § 2.2-4027, which requires that reviewing courts "take due account" of the "experience and specialized competence of the agency" promulgating

the regulation. Va. Real Estate Bd. v. Clay, 9 Va. App. 152, 160-61, 384 S.E.2d 622, 627 (1989) (interpreting former Code § 9-6.14:17). Even so, “deference is not abdication, and it requires us to accept only those agency interpretations that are reasonable in light of the principles of construction courts normally employ.” EEOC v. Arabian American Oil Co., 499 U.S. 244, 260 (1991) (Scalia, J., concurring).

No matter how one calibrates judicial deference, the administrative power to interpret a regulation does not include the power to rewrite it. When a regulation is “not ambiguous,” judicial deference “to the agency’s position would be to permit the agency, under the guise of interpreting a regulation, to create *de facto* a new regulation.” Christensen v. Harris County, 529 U.S. 576, 588 (2000). Though agencies may be tempted to adjudicate their way around unwanted regulations, such overreaching undermines the notice and public hearing procedures of the rulemaking process — thereby putting in jeopardy the “enhanced political accountability of agency policy decisions adopted through the rulemaking process” and the democratic virtue of allowing “all potentially affected members of the public an opportunity to participate in the process of determining the rules that affect them.” 1 Richard J. Pierce, Jr., Administrative Law Treatise § 6.8, at 369, 372 (4th ed. 2002); see generally 1 Charles H. Koch, Jr., Administrative Law & Practice § 2.12, at 53 (2d ed. 1997).

Here, the Technical Review Board interpreted USBC § 115.8.1 to wholly preclude the Board of Supervisors from imposing what § 109.3 plainly permitted — the imposition of “any limitation” the Board of Supervisors chose to impose upon the delegation by its building official of his duties to private third-party inspectors. Nothing in the text or the logical context of either regulation supports this interpretation.<sup>5</sup> In effect, the Technical Review Board excised the

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<sup>5</sup> During the hearing before the circuit court, the court added an additional rationale for the Technical Review Board’s decision: “There is nothing in [section 109.3] that tracks the language in section 104, that says the locality may establish additional qualification requirements

phrase “any limitations imposed by the locality” from USBC § 109.3 without complying with the notice and hearing procedures designed to protect the public’s interest in participating in the lawmaking task of administrative agencies.

### III.

In sum, the circuit court erred in deferring to the Technical Review Board’s unreasonable interpretation of USBC § 109.3. We reverse the circuit court’s dismissal of the VAPA petition for appeal and remand with instructions to vacate the Technical Review Board’s case decision holding that the Board of Supervisors had no authority to establish qualifications for third-party inspectors under the USBC.

Reversed and remanded.

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for delegated duties.” We acknowledge, but are unpersuaded by, this observation. Section 109.3’s reference to “any limitations” is broad enough to need no further amplification.

**Rodgers, Emory**

**From:** Hodge, Vernon  
**Sent:** Monday, June 09, 2008 8:28 AM  
**To:** Stills, Harold A.  
**Cc:** Bartell, Richard; Rodgers, Emory; Eubank, Paula  
**Subject:** RE: Interpretation for existing buildings (chap. 34)

Harold and Richard,

Section 103.3 requires a building to completely comply with the new code when there is a change of occupancy and the change requires a greater degree of any of the components listed.

During the 2006 code change cycle at one of the workgroup meetings we were looking at the Compliance Alternatives option and it was mentioned that using that option does not require changes to the electrical, plumbing and mechanical systems. John Catlett did not agree and to make it clear that it does, the VBCOA Admin Committee put in a code change to specifically reference ele/plumbing/mech requirements, which added the exception to Section 3410.2.1. The exception sends you back to Section 103.3 for what to do and would require full compliance with the ele/plumbing/mech requirements in the new code, unless modifications are granted.

The Virginia Rehabilitation Code (VRC) has lesser requirements for the ele/plumbing/mech systems in Chapter 9, so that is probably the best option now for change of occupancy, or you could grant a modification to use Compliance Alternatives for the general, structural, fire protection and egress requirements and the VRC for the ele/plumbing/mech requirements.

Vernon Hodge, Technical Services Manager  
 Technical Assistance Services Office (TASO)  
 Division of Building and Fire Regulations  
 Va. Department of Housing and Community Development  
 Direct Dial: (804) 371-7174  
 Email: [Vernon.Hodge@DHCD.virginia.gov](mailto:Vernon.Hodge@DHCD.virginia.gov)  
 Blackberry: (804) 382-2973

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**From:** Stills, Harold A. [<mailto:hastills@co.hanover.va.us>]  
**Sent:** Friday, June 06, 2008 2:23 PM  
**To:** Hodge, Vernon  
**Subject:** Interpretation for existing buildings (chap. 34)

Vernon,  
 Richard and I would like your interpretation of section 3410.2. What is the exact meaning of "specifically requested by an owner.."? Here are our two scenarios:

- 1) We have a change of use from an R-5 to E. The occupant load is 22 children, 3 adults. Section 103.3 of the USBC states that a greater degree of structural strength, fire protection, means of egress, ventilation or sanitation shall be accounted for. Thus, my list of required work includes checking the floor system, accessible way, and emergency egress lighting. Are the owners required to have a mop sink, water fountain, and two accessible restrooms (IPC require separate facilities when the occupant load exceeds 15)?
- 2) Change of use from R-5 to B. Along with the items above, is the existing restroom required to be made accessible?

Thanks,

*Harold Stills*

VIRGINIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION OF BUILDING AND FIRE REGULATION

2006 Code Change Cycle – Code Change Evaluation Form

USBC – Virginia Construction and Maintenance Codes and the Virginia Amusement  
Device Regulations  
Code Change No. C-105.1.4-a

**Nature of Change:** (text is on code change form)

To implement continuing education requirements for enforcement personnel under the USBC Construction and Maintenance Codes and the Amusement Device Regulations.

**Proponent:** DHCD Staff

**Staff Comments:**

In cooperation with the Building Code Academy Advisory Committee (BCAAC), this proposal would implement 16 hours of continuing education every two years for enforcement personnel to maintain the certificates of competence issued by the Board of Housing and Community Development. The codes already requires continuing education by attending the periodic code update classes provided near the end of each code update cycle. This next step would raise the level of professionalism of certificate holders by accepting ongoing training and educational classes in building and fire code related fields as a prerequisite for maintaining certificates.

This proposal and an alternative proposal (Code Change No. C-105.1.4-b, which is behind this proposal) was reviewed by Workgroup 2 at several meetings and by BCAAC and this proposal was moved forward as the consensus proposal.

**Codes and Standards Committee Action:**

☐ Approve as presented.

☐ Disapprove.

☒ Approve as modified (specify): *add lang to clarify 16 total for all certificates*

☐ Carry over to next cycle.

☐ Other (specify):

Technical Assistance Services Office  
Division of Building and Fire Regulation  
Virginia Department of Housing and Community Development  
December 2008

Staff Suggested Code Changes for Clarification of the Continuing Education Requirements and Certification of Third Party Inspectors

USBC, Part I (Virginia Construction Code)

Sections 105.1.4 and 105.2.3 (Continuing education requirements)

~~Building officials [105.1.4] Technical assistants [105.2.3] shall attend 16 hours every two years of continuing education and periodic training courses approved or required designated by DHCD. Additional continuing education hours shall not be required if more than one certificate is held.~~ In addition to the periodic training courses required above, building officials [105.1.4] technical assistants [105.2.3] shall attend 16 hours every two years of continuing education training approved by DHCD. If a building official [105.1.4] technical assistant [105.2.3] has more than DHCD certificate, the 16 hours shall satisfy the continuing education requirement for all certificates.

section 113.7.2 Qualifications (of third-party inspectors)

~~In determining third-party inspector qualifications, the building official may consider such items as DHCD certifications, other state and national certifications, state professional registrations, related experience, education and any other factors that would demonstrate competency and reliability to conduct inspections.~~ In addition, all third party inspectors shall be certified in the appropriate subject area in accordance with the VCS and shall be subject to the periodic training and continuing education requirements in Section 105.2.3.

Section 202

~~Technical Assistant. Any person employed by or under an extended contract to a local building department or local enforcing agency for enforcing the USBC. For the purposes of this definition, an extended contract shall be a contract with an aggregate term of 18 months or longer.~~

For example, a community recreation center is constructed with no sprinklers over the gymnasium floor. The same area is also utilized for receptions and various community activities such as work fairs, rummage sale, art exhibits, emergency shelters for persons displaced by natural disasters, etc. Such uses could even include eating, sleeping, and fire loads far in excess of a few uniforms and leather volleyballs.

Final Action: AS AM AMPC\_\_\_\_\_ D

## F133-07/08

### 903.2.2 (IBC [F] 903.2.2)

#### *Proposed Change as Submitted:*

**Proponent:** Jeff Hugo, National Fire Sprinkler Association

#### **Revise as follows:**

**903.2.2 (IBC [F] 903.2.2) (Supp) Group E.** An automatic sprinkler system shall be provided for Group E occupancies as follows:

1. Throughout all Group E fire areas greater than ~~20,000~~ 12,000 square feet (~~1858~~ 1115 m<sup>2</sup>) in area.
2. Throughout every portion of educational buildings below the lowest level of exit discharge that serves that portion of the building.

**Exception:** An automatic sprinkler system is not required in any fire area or area below the level of exit discharge where every classroom throughout the building has at least one exterior exit door at ground level.

**Reason:** The continuity of mission is important for educational occupancies. If a community loses a school that community cannot quickly recover to resume normal school activities. There are several similarities between educational and several other occupancies, therefore sprinkler requirements should also be similar. Reducing the fire area from 20,000 s.f. to 12,000 s.f. will aid in fire fighter rescue, smaller area of damage, and a quicker recovery to school programs if a sprinkler system is not chosen. Although through consistent fire drills, deaths are rare, but the possibility exists for a large loss of life in educational occupancies. A threshold of 20,000 square feet is one of the highest minimum sprinkler thresholds in the code and exists without good reason. Some states have already mandated complete sprinkler protection in educational occupancies.

In most cases it is not economically feasible to build a school without sprinkler protection. The cost savings for a community to build a school is introduced when the decision to install sprinklers is done at the early stages of the project where they can take advantage of the sprinkler trade ups for building construction. Another factor to consider is federal, state, and local tax monies available to build and repair schools. A fire sprinkled school will cost less to insure, less to rebuild, less liability to the school system, less injuries, less taxes, and less downtime. According to statistics only 24% of the nation's schools have fire sprinklers. However the average fire loss when sprinklers are present are \$2,800 versus \$12,900 having no sprinklers, resulting in a 78% reduction in damage.

Fires during lockdowns, hostage, or terrorist events are now a concern than during the legacy codes where the 20,000 s.f. threshold evolved from. A fire during a lockdown is a lose-lose event for the administrators' and children. Fire sprinklers can control the fire during the lockdown in lieu of endangering the children exiting during the lockdown or prohibiting egress caused by the fire.

Statistics from a four year period of 1999-2002, there were an estimated average of 7,070 structure fires in educational occupancies along with 113 injuries and \$112 million in property damage. K-12 schools make up 5,230 fires, 88 injuries, and \$74 million in fire damage. This is money from the taxes we pay, and these are our children getting burned and injured. Fire sprinklers can reduce the cost while increasing fire protection. Including fire sprinklers during the design process can significantly reduce the construction cost.

#### **Bibliography:**

EDUCATIONAL PROPERTIES, National Fire Protection Association, September 2006

Practical Information on Crisis Planning: A Guide for Schools and Communities, US Dept of Education, Jan. 2007

**Cost Impact:** The code change proposal will not increase the cost of construction.

#### **Committee Action:**

**Approved as Submitted**

**Committee Reason:** The proposal was approved because the committee agreed that the proponent's reason statement accurately and adequately substantiates the need for the change, which will provide increased life safety and property protection in buildings that are an essential part of a community. Whereas several previous proposals sought to sprinkler all schools without exception, this proposal includes a reduced but reasonable threshold that is similar to other sprinkler thresholds in Section 903.

#### **Assembly Action:**

**None**

#### *Individual Consideration Agenda*

**This item is on the agenda for individual consideration because public comments were submitted.**

*Public Comment 1:*

**Gene Boecker, Code Consultants, Inc., representing himself, requests Disapproval.**

**Commenter's Reason:** The proposal sought to change downward the threshold for sprinkler protection in school from 20,000 SF to 12,000 SF without sufficient justification. That fact that there are other thresholds in the code for sprinkler protection is not a justifiable reason. The proponent's comment about fires as a result of lock-downs, hostage or terrorist events is irrelevant to the SF assigned for sprinkler protection. No substantiation was presented to show that 12,000 SF would be a proper number nor were there reports provided showing that any of these events have occurred and what relationship the fire area had on the situation.

Statistics were presented regarding fires in K-12 facilities during the period 1999-2002 indicating the number of structure fires, property damage costs and total number of fires. There was no documentation provided to show whether any of these schools had sprinkler protection or limited fire are compartmentation. Consequently there is no documentation provided to demonstrate that the reduction in area would result in any improvement in the situation.

The reduction to 12,000 SF means that for a two-story school with a double loaded corridor, a fire barrier would need to be constructed at every other classroom to keep the area within the limits. While many schools would likely opt for sprinklers over the cost and bother of compartmentation, the compartmentation option exists and is important for schools in areas with limited water supply. In some areas, the cost for the sprinkler tap and water reserve fee would be approximately the same as that for the fire barriers.

This proposal is asking for a reduction in the area without adequate justification and for that reason it should be returned to the proponent so that a proper defense of the fact can be prepared.

*Public Comment 2:*

**Jonathon D. Hamrick, Florida Department of Education, requests Disapproval.**

**Commenter's Reason:** The proponent's reasoning is based solely on a perceived problem that has not been documented, and is based on schools being used as shelters and because of school lockdowns. No evidence or studies were presented to support this change, only a perceived problem. Not all E occupancy buildings over 12,000 square feet in fire areas are used as shelters. School lockdown policies have been developed to address the evacuation when an actual fire occurs while the school is in lockdown whether the building is equipped with a fire sprinkler system or not.

*Public Comment 3:*

**Jason Thompson, PE, National Concrete Masonry Association (NCMA), representing Masonry Alliance for Codes and Standards (MACS), requests Disapproval.**

**Commenter's Reason:** In our opinion there has been no significant technical justification to support the reduction in the threshold trigger for requiring automatic sprinklers in Group E fire areas from the current 20,000 sq ft to the 12,000 sq ft proposed in this code change. In the Committee's Reason it is stated that the decrease in the threshold will provide increased life safety, however, the sprinkler requirement is not a life safety issue as evidenced by the Exception which allows the omission of the automatic sprinkler system requirement where every classroom has at least one exterior door at ground level. That is clearly a life safety exception to the sprinkler requirement even if the threshold were reduced to 12,000 sq ft.

Furthermore, the Committee indicated that several previous proposals sought to require sprinklers in schools regardless of the threshold area and that this proposed threshold was reasonable. However, there have been other code change proposals that have been submitted ever since this requirement went into the 2000 International Building Code (IBC) that included reduced sprinkler thresholds below the 20,000 sq ft, and they were all disapproved by the ICC Class A voting members.

This is truly a property protection issue which should be justified on the basis that a reduced threshold will enhance property protection and reduce overall fire protection costs for schools. However, the data provided in the Reason statement for the code change did not provide such information. In fact, some of the substantiation actually support the fact that the sprinklers will not provide a significant additional degree of property protection. The statistics indicate that the average fire loss when sprinklers are present is \$2,800 whereas the average fire loss is \$12,900 without sprinkler protection. This is only a difference of \$10,000. That is a relatively low dollar average loss for a nonsprinklered school. Furthermore, there was no justification provided to indicate that there would be some return in investment for sprinklering buildings of Group E occupancies at the 12,000 sq ft threshold as compared to the 20,000 sq ft threshold that now exists. And, obviously, one of the biggest problems in sprinklering schools occurs where schools are most often being built: in the suburban and rural areas of the country where growth is occurring and the population is shifting. In these areas the water supplies are often marginal or totally inadequate for providing automatic sprinkler protection. In those cases, on-site water supplies are necessary. They can add very significant cost to the sprinkler system and will require significant maintenance over the life of the school which also adds to the cost of the sprinkler system.

A viable option is needed to allow for schools to be constructed in these areas without having to mandate the installation of automatic sprinkler systems. The current threshold of 20,000 sq ft has proven to be adequate over the years as a reasonable fire compartment size to allow being nonsprinklered in Group E educational occupancies. This larger size fire compartment will also facilitate the use of open plan school designs which would be greatly penalized and made less functional if a 12,000 sq ft sprinkler threshold is approved.

In conclusion, we believe that the tried and tested 20,000 sq ft sprinkler threshold for Group E occupancies should not be reduced without significant technical justification based upon a detailed cost analysis to show that there is an overall property protection benefit, especially for schools constructed in areas with limited or inadequate water supplies. Therefore, we strongly believe that the ICC Class A voting members should disapprove this code change proposal by approving this Public Comment.

Final Action:      AS              AM              AMPC\_\_\_\_\_              D

Code change for fire alarms

**Rodgers, Emory**

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**From:** Rodgers, Emory  
**Sent:** Wednesday, April 16, 2008 2:51 PM  
**To:** Witt, Rick  
**Cc:** Hodge, Vernon  
**Subject:** RE: Code change for fire alarms

Rick: will have Vernon review as am fishing. Agree, only 2.3 was to be deleted from the 2003 USBC and IBC with the #3 exception left in section same for both 2003 and 2006 IBC/USBC. Section 903.4.2 then got the amended language that was formerly 2.3 in 907.2.9 Fairfax change clearly indicates on 2.3 deleted and not #3 that followed as another exception.

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**From:** Witt, Rick [mailto:WittR@chesterfield.gov]  
**Sent:** Wednesday, April 16, 2008 2:43 PM  
**To:** Rodgers, Emory  
**Subject:** Code change for fire alarms

Emory,  
Attached is what I believe the Board approved unless some other page was given to them. Notice that exception 3 is not shown but there is language to say that the remainder of the section was unchanged

Thanks,  
Rick <<fire alarm code change.jpg>>

# DEPT. OF HOUSING AND COMMUNITY DEVELOPMENT REGULATORY CHANGE FORM

(Use this form to submit changes to building and fire codes)

Address to submit to:  DHCD, the Jackson Center 501 North Second Street Richmond, VA 23219-1321  Tel. No. (804) 371 - 7150 Fax No. (804) 371 - 7092 Email: bhcd@dhcd.state.va.us	Document No. <u>C-903.4.2</u> Committee Action: _____ BHCD Action: _____
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Submitted by: Ray Pylant      Representing: Fairfax County

Address: 12055 Government Center Pkwy., Suite 448 Fairfax, VA 22030      Phone No.: 703-324-1910

Regulation Title: Virginia Construction Code      Section No(s): IBC Sections 903.4.2 and 907.2.9

Proposed Change:

Add new language to IBC(2006) Section 930.4.2:

**[F] 903.4.2 Alarms.** Approved audible devices shall be connected to every automatic sprinkler system. Such sprinkler water-flow alarm devices shall be activated by water flow equivalent to the flow of a single sprinkler of the smallest orifice size installed in the system. Alarm devices shall be provided on the exterior of the building in an approved location. Where a fire alarm system is installed, actuation of the automatic sprinkler system shall actuate the building fire alarm system. Group R-2 occupancies that contain 16 or more dwelling units or sleeping units; or any dwelling unit or sleeping unit two or more stories above the lowest level of exit discharge; or any dwelling unit or sleeping unit more than one story below the highest level of exit discharge of exits serving the dwelling unit or sleeping unit, shall provide a manual fire alarm box at an approved location to activate the suppression system alarm.

Delete Exception 2.3 of VUSBC(2006) Section 907.2.9 (remainder of Section remains unchanged):

**[F] 907.2.9 Group R-2.** A manual fire alarm system shall be installed in Group R-2 occupancies.

**Exceptions:**

1. A fire alarm system is not required in buildings not over two stories in height where all dwelling units or sleeping rooms and contiguous attic and crawl spaces are separated from each other and public or common areas by at least one-hour fire partitions and each dwelling unit or sleeping room has an exit directly to a public way, exit court or yard.
2. Manual fire alarm boxes are not required throughout the building when the following conditions are met:
  - 2.1. The building is equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2.
  - 2.2. The notification appliances will activate upon sprinkler flow, and
  - 2.3. ~~At least one manual fire alarm box is installed at an approved location.~~

B. .... **(WAS UNCHANGED)**

Supporting Statement:

This code change proposal maintains consistency with the current VUSBC(2003) edition applying to buildings two or more stories in height. During some of the preliminary work group client meetings this section was discussed, and someone indicated a need for clarification, in that the language did not clearly state what exactly is required for this application, simply a manual pull station with audible signal, or the inclusion of lights and strobes. This proposal is intended to clarify any perceived confusion with the current USBC regulations.

## F132-07/08

903.2.1.3, 903.2.1.4 (IBC [F] 903.2.1.3, [F] 903.2.1.4)

### *Proposed Change as Submitted:*

**Proponent:** Tom Lariviere, Fire Department, Madison, MS, representing Joint Fire Service Review Committee

### **Revise as follows:**

**903.2.1.3 (IBC [F] 903.2.1.3) Group A-3.** An automatic sprinkler system shall be provided for Group A-3 occupancies where one of the following conditions exists:

1. The fire area exceeds 12,000 square feet (1115 m<sup>2</sup>);
2. The fire area has an occupant load of 300 or more; or
3. The fire area is located on a floor other than the level of exit discharge.

~~**Exception:** Areas used exclusively as participant sports areas where the main floor area is located at the same level as the level of exit discharge of the main entrance and exit.~~

**903.2.1.4 (IBC [F] 903.2.1.4) Group A-4.** An automatic sprinkler system shall be provided for Group A-4 occupancies where one of the following conditions exists:

1. The fire area exceeds 12,000 square feet (1115 m<sup>2</sup>);
2. The fire area has an occupant load of 300 or more; or
3. The fire area is located on a floor other than the level of exit discharge.

~~**Exception:** Areas used exclusively as participant sports areas where the main floor area is located at the same level as the level of exit discharge of the main entrance and exit.~~

**Reason:** The intention of the exception was for gymnasiums and similar areas where the probable occupant load was significantly less than what would be determined based on a square footage per occupant factor. These facilities have become multi-use and the occupant load is frequently higher than what was anticipated or expected when the exception was developed, and the fire load can vary based on the used to far exceed what would be expected for a sporting area.

For example, a community recreation center is constructed with no sprinklers over the gymnasium floor. The same area is also utilized for receptions and various community activities such as work fairs, rummage sale, art exhibits, emergency shelters for persons displaced by natural disasters, etc. Such uses could even include eating, sleeping, and fire loads far in excess of a few uniforms and leather volleyballs.

**Cost Impact:** Since the rest of the building will be sprinklered, the additional cost is only for additional sprinkler lines.

### **Committee Action:**

**Disapproved**

**Committee Reason:** The proposal was disapproved because the committee felt that the current exception that is aimed at limited-use facilities is needed and that the "exclusive" use of the area for participant sports is the key to successful application and must be strictly enforced by the fire code official at the outset of a project. Changes to the use of the area after occupancy should be reviewed as an illegal change in use that must be regulated.

### **Assembly Action:**

**None**

### *Individual Consideration Agenda*

**This item is on the agenda for individual consideration because a public comment was submitted.**

### *Public Comment:*

**Tom Lariviere, Fire Department, Madison, MS, representing Joint Fire Service Review Committee, requests Approval as Submitted.**

**Commenter's Reason:** This public comment allows for the facility to be construction without any restrictions on use or the need for the local fire code official to track each and every event in each and every location where this exception was utilized within the jurisdiction.

The intention of the exception was for gymnasiums and similar areas where the probable occupant load was significantly less than what would be determined based on a square footage per occupant factor. These facilities have become multi-use and the occupant load is frequently higher than what was anticipated or expected when the exception was developed, and the fire load can vary based on the used to r exceed what would be expected for a sporting area.

## Rodgers, Emory

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**From:** Rodgers, Emory  
**Sent:** Monday, December 01, 2008 12:08 PM  
**To:** Hodge, Vernon; 'Brian Smith'  
**Cc:** Patricia Castellano; Eubank, Paula; Wallace, Clinton  
**Subject:** RE: Occupancy for Modular Homes (trailers)

All: Thanks Brian for bringing up this up. My team we should for 2009 USBC and MHSR put something into the VMC and maybe the MHSR that links the law and regulations for existing manufactured and modular houses/buildings.

Whether it is IRC, IBC, MHSR or IBSR home the bedroom size for occupant loading is the same. I am unsure if we have had appeals before on ages of the occupants? Vernon can research. In my days as PMCO I wouldn't have cited a mother with an infant in a bedroom greater than the minimum 70s.f and less than 100s.f. unless there were other violations of safety and unsafe conditions. Think of a new couple with one bedroom of 120s.f. and a new baby so if followed as 50s.f. per person then that is too a violation. We need to bring up for 2009 as a big issue.

Do we round off numbers? Like 140s.f is greater than 125 so why not say okay for mother and two young kids? I would say 5 is okay but example is 6 residents. Again, I would be looking for other violations and not be focused solely on this one if that is all the compliant is about? If there are alleged abuses or social services/schools and health involved then would also be more apted to use T404.5. I guess 3 or less in age might be a factor for me. Small houses and large families have always posed a problem. I assume zoning is already violated having unrelated adult and their kids in the same dwelling? Just some of the issues to consider.

---

**From:** Hodge, Vernon  
**Sent:** Mon 12/1/2008 11:39 AM  
**To:** 'Brian Smith'  
**Cc:** Patricia Castellano; Rodgers, Emory; Eubank, Paula; Wallace, Clinton  
**Subject:** RE: Occupancy for Modular Homes (trailers)

Hi Brian,

I don't see any reason why the Virginia Maintenance Code wouldn't be applicable to manufactured homes. There is a provision in state law under the laws for manufactured housing which specifically states that "the maintenance of the manufactured home shall meet the requirements of the Uniform Statewide Building Code." That's in § 36-85.11 of the Code of Virginia.

Vernon Hodge, Technical Services Manager  
Technical Assistance Services Office (TASO)  
Division of Building and Fire Regulations  
Va. Department of Housing and Community Development  
Direct Dial: (804) 371-7174  
Email: [Vernon.Hodge@DHCD.virginia.gov](mailto:Vernon.Hodge@DHCD.virginia.gov)  
Blackberry: (804) 382-2973

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**From:** Brian Smith [<mailto:BSmith@ci.manassas.va.us>]  
**Sent:** Wednesday, November 26, 2008 1:59 PM  
**To:** Hodge, Vernon  
**Cc:** Patricia Castellano  
**Subject:** Occupancy for Modular Homes (trailers)

The trailer was built in 1978

2 bedroom

1 bedroom at approximately 140 sq ft (currently occupied by 3 persons) (1 adult, 1 four year old, 1 two year old.  
The other between 70 and 100 sq ft. (currently occupied by 3 persons) (one adult, 1 three year old and 1 infant).

I need to know if I am to apply the Maintenance Code occupancy limits for trailers. I asked this once before and was told "no", that I was to apply whatever standard for occupancy existed in 1978. If that is so, what standard was used in 1978?

If I apply the Maintenance Code standard, I would restrict this occupancy to four.

Thanks for the help. Brian Smith, City of Manassas

## Rodgers, Emory

**From:** Rodgers, Emory  
**Sent:** Thursday, February 05, 2009 8:20 AM  
**To:** 'Clements, Ron'; Witt, Rick; John.Catlett@alexandriava.gov; 'Justin Biller'; 'Underwood, Lynn'; rcgva@comcast.net  
**Cc:** 'Dupler, Bill'; Dawson, Robby; Dennis Mitchell; 'Brian Gordon'; bhardiman@hbav.com; 'Mike Toalson'; Hodge, Vernon; Wallace, Clinton; Eubank, Paula; Altizer, Ed (VDFP); Knachel, Leslie (VDSS); cmajowka@arlingtonva.us; 'ccsingleton8@aol.com'; 'vpffld@aol.com'; 'megan@vhfa.org'; 'barry@vhfa.org'; 'schaefer oglesby'; 'Shaun Pharr'; 'Bert Jones'; 'Duncan Abernathy'; 'Bob Dillman'; 'Robertson, Roger'; 'Ron Dunlap'; daniel.rakes@roanokeva.gov  
**Subject:** CO alarms homework assignment for SB853

All: 2-3-09 SB853 passed the Senate Local Government Committee as a substitute that requires the Board of Housing and Community Development to promulgate CO alarm requirements in newly constructed and existing residential occupancies. The SB853 has to pass the House and then be approved by the Governor. I think there is a consensus to have the BHCD promulgate regulations after 4 years of study and failed attempts to mandate CO alarms so I am assuming for the sake of getting your input that the bill will be approved. For the 1<sup>st</sup> time in the 2009 ICC International Residential Code there is a mandate to install CO alarms in 1&2 family dwelling and existing homes.

The BHCD will commence the 2009 regulatory cycle this year with DHCD staff already scheduling 8 work group sessions in March and April of 2009. Work Group 3 meets on April 2<sup>nd</sup>, 2009 at 9:30 here at DHCD and on their agendas will be CO alarm discussion for all R-1 hotels/motels, all R-2 apartment/multi-family buildings, dormitories, rooming houses and licensed group homes constructed as R-3 and R-4 occupancies. On April 9<sup>th</sup> same time and place we will discuss the 2009 IRC mandates. It is of great importance that the BHCD receives not just the input of the building and fire officials but the builders' apartment owners, condo associations, licensure agencies, manufactured housing, public and private colleges/universities and the hotel/motel owners/operators.

Your homework assignment:

New Construction: Currently, in the 2009 IRC for 1&2 family dwelling. Are there tweaks necessary such as clarifying CO alarms can be plug-in with battery back-up, battery types or hardwired with combination systems. Is one CO alarm ok per dwelling unit, per floor/story or one per floor/story and then each bedroom as the baseline requirement? Are Manufactured Homes to be covered and if so the Manufactured Housing Safety Regulations will need to be changed. Existing 1&2 family homes: Should they be mandated for retrofitting and what is the trigger? The 2009 IRC says whenever there is a permit issues. What would then be the technical requirements on types and numbers of CO alarms required? What is the fire data and potential cost? How would the SFPC be amended or the USEC VMC to ensure maintenance?

For the 2009 International Building Code there are no current CO alarm requirements. SB 853 is directing the BHCD to promulgate regulations. Technical issues include type and number of CO alarms such as one per dwelling unit or sleeping unit and plug-in/battery back-up, battery, combination or hardwired where there is fuel-fired appliances? We are assuming fuel-fired appliances are within the dwelling unit or sleeping unit or within the building such as a central heating and water heating system. For retrofitting what should be the coverage of occupancies, types and number of CO alarms required? What is the fire data and cost? Should there be a time frame such as 3-5 years or when permits are issued or some combination thereof? If existing residential occupancies have already installed CO alarms, would or should the regulations require these buildings to be upgraded to whatever is the final regulations such as an existing dwelling unit has a CO alarm and the new regulations would require more than one alarm?

Produce your code changes for new and existing residential buildings with justification for the above noted meetings. By putting forth code changes now will provide a more efficient and expeditious process to gain a consensus and then be able to place into the proposed 2009 regulations hopefully consensus requirements.

**From:** Rodgers, Emory [mailto:Emory.Rodgers@dhcd.virginia.gov]

**Sent:** Thursday, February 05, 2009 8:20 AM

**To:** Clements, Ron; Witt, Rick; John.Catlett@alexandriava.gov; Justin Biller; Underwood, Lynn; rcgva@comcast.net

**Cc:** Dupler, Bill; Dawson, Robby; Dennis Mitchell; Brian Gordon; bhardiman@hbav.com; Mike Toalson; Hodge, Vernon; Wallace, Clinton; Eubank, Paula; Altizer, Ed (VD/FP); Knachel, Leslie (VDSS); cmajowka@arlingtonva.us; ccsingleton8@aol.com; vpffld@aol.com; megan@vhfa.org; barry@vhfa.org; schaefer oglesby; Shaun Pharr; Bert Jones; Duncan Abernathy; Bob Dillman; Robertson, Roger; Ron Dunlap; daniel.rakes@roanokeva.gov

**Subject:** CO alarms homework assignment for SB853

All: 2-3-09 SB853 passed the Senate Local Government Committee as a substitute that requires the Board of Housing and Community Development to promulgate CO alarm requirements in newly constructed and existing residential occupancies. The SB853 has to pass the House and then be approved by the Governor. I think there is a consensus to have the BHCD promulgate regulations after 4 years of study and failed attempts to mandate CO alarms so I am assuming for the sake of getting your input that the bill will be approved. For the 1<sup>st</sup> time in the 2009 ICC International Residential Code there is a mandate to install CO alarms in 1&2 family dwelling and existing homes.

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Your homework assignment:

**New Construction:** Currently, in the 2009 IRC for 1&2 family dwelling. Are there tweaks necessary such as clarifying CO alarms can be plug-in with battery back-up, battery types or hardwired with combination systems. Is one CO alarm ok per dwelling unit, per floor/story or one per floor/story and then each bedroom as the baseline requirement? Are Manufactured Homes to be covered and if so the Manufactured Housing Safety Regulations will need to be changed. **Existing 1&2 family homes:** Should they be mandated for retrofitting and what is the trigger? The 2009 IRC says whenever there is a permit issues. What would then be the technical requirements on types and numbers of CO alarms required? What is the fire data and potential cost? How would the SFPC be amended or the USBC VMC to ensure maintenance?

For the 2009 International Building Code there are no current CO alarm requirements. SB 853 is directing the BHCD to promulgate regulations. Technical issues include type and number of CO alarms such as one per dwelling unit or sleeping unit and plug-in/battery back-up, battery, combination or hardwired where there is fuel-fired appliances? We are assuming fuel-fired appliances are within the dwelling unit or sleeping unit or within the building such as a central heating and water heating system. For retrofitting what should be the coverage of occupancies, types and number of CO alarms required? What is the fire data and cost? Should there be a time frame such as 3-5 years or when permits are issued or some combination thereof? If existing residential occupancies have already installed CO alarms, would or should the regulations require these buildings to be upgraded to whatever is the final regulations such as an existing dwelling unit has a CO alarm and the new regulations would require more than one alarm?

Produce your code changes for new and existing residential buildings with justification for the above noted meetings. By putting forth code changes now will provide a more efficient and expeditious process to gain a consensus and then be able to place into the proposed 2009 regulations hopefully consensus requirements.

**SENATE BILL NO. 853**  
**AMENDMENT IN THE NATURE OF A SUBSTITUTE**  
**(Proposed by the Senate Committee on Local Government**  
**on February 3, 2009)**

(Patron Prior to Substitute--Senator Edwards)

*A BILL to amend the Code of Virginia by adding a section numbered 36-99.5:2, relating to carbon monoxide detectors.*

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 36-99.5:2 as follows:

§ 36-99.5:2. *Carbon monoxide detectors.*

*A. The Board of Housing and Community Development shall promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) in the Uniform Statewide Building Code and the Fire Prevention Code establishing standards and requirements for carbon monoxide detectors in residential occupancies and dwelling units serviced by fuel-fired appliances.*

*B. The regulations shall require the owner of non-owner-occupied dwellings or residential units to maintain the carbon monoxide detection devices in good working order.*

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**Legislative Information System**

## Rodgers, Emory

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**From:** Rodgers, Emory  
**Sent:** Tuesday, January 20, 2009 1:06 PM  
**To:** Cheri B. Hainer; Underwood, Lynn; Bob Smalley (Chesapeake); Patrick Hughes; Steve Shapiro (Hampton); Doug Murrow  
**Cc:** Hodge, Vernon; Eubank, Paula; Wallace, Clinton  
**Subject:** RE: Fats, Oils and Grease (FOG) Reduction Program - Revised Administrative Directive and MOU

Cheri: Please feel free to send this email to Mr. Leahy. The state law and regulations doesn't allow local governments and other state agencies from imposing construction standards and requirements. There are functional design elements that we have MOA's with other state agencies for group homes, licensed facilities, septic systems, water systems, boilers, underground fuel tanks, etc. There is no MOA with DEQ on this matter. Having a consent order from DEQ doesn't mean a locality or region can just override the USBC that clearly covers grease interceptors. If your DPU wants to change the IPC requirements, we have just commenced the 2009 USBC process and will be glad to work with Mr. Leahy on grease interceptor code changes at the state and national level with ICC.

I am pretty familiar with the current grease interceptor requirements and find them not at all confusing or lacking in clarity. If there is such a need for clarity, I suggest DPU work with the local building officials on a commentary for the design professionals and contractors through the USBC process and not separately. Certainly, DPUI has authority to do their MOA within the city and regionally, but not to conflict or override the USBC requirements with more stringent provisions.

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**From:** Cheri B. Hainer [mailto:CHainer@vbgov.com]  
**Sent:** Tuesday, January 20, 2009 12:03 PM  
**To:** Underwood, Lynn; Bob Smalley (Chesapeake); Patrick Hughes; Steve Shapiro (Hampton); Doug Murrow; Rodgers, Emory  
**Subject:** FW: Fats, Oils and Grease (FOG) Reduction Program - Revised Administrative Directive and MOU

I just got this today – it is against every recommendation this office made. Supposedly it is based on the Hampton Roads Regional FOG program and all cities will be endorsing and enforcing this. Please note in the FOG Revised AS MOU, the USBC is the United States Building Code. We may want to discuss this tomorrow. Thanks

*Cheri Bright Hainer, CBO*

Permits and Inspections Administrator  
Planning/Permits & Inspections  
2405 Courthouse Drive, Building 2, Room 100  
Virginia Beach, Virginia 23456  
757.385.4211 757.385.5777 (fax)

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**From:** Tom Leahy  
**Sent:** Tuesday, January 20, 2009 11:13 AM  
**To:** Jason E. Cosby; Jack Whitney; Andrew M. Friedman; Steven R. Cover; Les L. Lilley; Philip J. Kellam  
**Cc:** Gary Jones; Stephen T. Motley; Toshia Martin; John S. Barnes; Steve G. McLaughlin; Cheri B. Hainer; Lynn Rountree; Richard C. Kephart; Patrick Ehle; Dottie T. Shurtz; Charles Hassen; Tony D. Tolentino; Bill M. Macali; Catherine E. LaBranche; Marilyn Crane  
**Subject:** Fats, Oils and Grease (FOG) Reduction Program - Revised Administrative Directive and MOU

On October 20, 2008, a draft copy of an Administrative Directive (AD) for Fats, Oils and Grease Reduction (FOG) was routed to you and/or members of your staff for review and comment. The FOG Management AD has now been revised based on feedback received, and Public Utilities' responses are included in the attached memo from me.

Also attached, please find 1) the revised FOG Reduction Program AD, 2) a proposed MOU between Public Utilities and the Virginia Beach Department of Health, the Virginia Department of Agriculture, and the Commissioner of the Revenue, and 3) a table listing the interdepartmental roles and responsibilities.

This item is scheduled for the February 24, 2009 City Council meeting. If you have any questions, please feel free to contact me, Gary Jones, or Steve Motley.

Thank you.

**Rodgers, Emory**

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**From:** Rodgers, Emory  
**Sent:** Wednesday, October 01, 2008 6:20 AM  
**To:** Dupler, Bill  
**Subject:** RE: The memorandum of understanding with the health dept

Agree. There are water purveyors who work with the local building departments and in fact let them do the maintenance program like Arlington. There are others who want to control the whole thing including your point with the position our way or no service for the customer. DHCD and DOH MOA sets out the roles, but have little ability to dictate so locals have to in effect agree to follow or agree to disagree.

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**From:** Dupler, Bill [mailto:DuplerB@chesterfield.gov]  
**Sent:** Tuesday, September 30, 2008 5:59 PM  
**To:** Rodgers, Emory  
**Subject:** The memorandum of understanding with the health dept

Emory

Item 4 of the agreement speaks to cross connection programs & the USBC.

What authority does a water works provider have over the piping arrangements for drains off of large back flow protection devices such as 6" RPZs .

Can the water works owner specify requirements that emergency discharge piping must meet as a condition of their approval or are they simply limited to approving the device? All of these devices are located on the building system side of the meter or point of demarcation. I believe they are plumbing and as such our utilities dept can approve only the type of device used based upon its location ( from the last sentence of #4 ) but can not specify how the drains are to be plumbed etcetera .Details regarding the type of piping it's size and arrangement such as where it discharges how big it is among others are plumbing code requirements and as such fall under the purview of the Va USBC not the health dept regulations.

***Bill Dupler***  
***Building Official***

Chesterfield County

P.O. Box 40

Chesterfield, VA 23832

Telephone: 804-748-1611 Fax: 804-751-2249

E-mail: [duplerb@chesterfield.gov](mailto:duplerb@chesterfield.gov)



September 24, 2008

Mr. Russ Chaney  
Executive Director  
International Association of  
Plumbing and Mechanical Officials  
5001 E. Philadelphia Street  
Ontario, CA 91761

RE: IAPMO Proposal to Require Use of Purple Pipe Use in Graywater Systems

Dear Mr. Chaney:

There are three professional organizations represented by signature to this letter. These organizations, the WaterReuse Association, Water Environment Federation, and the American Water Works Association, represent the water and wastewater professionals who lead the planning, design, and operation of the vast majority of our nation's reclaimed water, wastewater, and potable water systems. We are aware of the proposal to be voted on in October by the International Association of Plumbing and Mechanical Officials (IAPMO) that would require the use of purple pipe for plumbing in graywater systems. As representatives of the members in each of these organizations, we strongly oppose adoption of this standard and urge IAPMO not to adopt the standard as proposed. Our objections to the use of purple pipe to transport graywater are based on the following observations.

The international utility community has adopted purple as the color code to identify piping used for reclaimed wastewater for non-potable uses. Utilities have expended many years on public education and utility staff training to safely distribute billions of gallons of highly treated wastewater, made safe for use as reclaimed wastewater, through purple pipe systems. Even with this effort, there have been instances where improper connections have resulted in short-term quality disruptions and adverse public reaction. These situations have been remedied and public confidence in these high quality supplemental water supplies restored. The reclaimed product that is distributed in purple pipe has typically received advanced secondary or higher levels of treatment that includes biological treatment, solids removal, filtration, and high-level disinfection. Many systems now include membrane treatment, advanced oxidation processes, and other high levels of treatment that provide for augmentation of drinking water supplies. The quality of product water in these potable reuse systems meets or exceeds potable (i.e., Safe Drinking Water Act) standards.

Mr. Russ Chaney  
September 24, 2008  
Page Two

Our concern is that the public does not recognize the significant quality differences between reclaimed water and graywater. If graywater is transported in purple pipe and a public health problem is created through exposure to inadequately treated graywater, the public will not be able to differentiate between the different sources of supply. While graywater is not intended to include solid fecal waste, there is no practical mechanism to exclude human waste. Even without the fecal matter, graywater typically includes substantial amounts of pathogenic bacteria, organics, and potentially viruses that are not appropriately reduced in a graywater system. Wastewater in graywater systems is intended for on-site use, typically in subsurface irrigation with minimal risk of exposure to the public. By placing graywater in purple pipe, the potential for cross connection between two significantly different quality sources could adversely impact the high quality of reclaimed water systems and create a public health hazard.

Most U.S. utilities have minimum reclaimed water quality criteria they pledge to maintain for their customers or are required to maintain by their state regulations. The U.S. Environmental Protection Agency's 2004 publication, *Guidelines for Water Reuse*, recommends that reclaimed water "at all times be adequately and reliably treated." Graywater is not adequately or reliably treated and would not meet the definition of reclaimed water. Most utilities do not allow an inferior quality water supply to be connected to the high quality reclaimed water system. In fact, some reclaimed water systems require double check backflow preventers to protect the quality of the reclaimed water system from contamination by other sources.

We strongly oppose the use of purple pipe for graywater systems and are very willing to work with an IAPMO committee to develop appropriate standards that are protective of public health and accommodate practical plumbing considerations for on-site systems. We would note that gray PVC pipe is readily available in several pressure classes for use in graywater systems. There are multiple commercial sources for self adhesive labels that can be applied to this conventional gray pipe to identify the pipe as a non-potable graywater system. We believe this type of color association specific to the quality and intended use will be supportive of public health and facilitate public education.

We respectfully request that the IAPMO not adopt standards requiring use of purple pipe for graywater systems. Please contact Mr. Don Vandertulip (VandertulipWD@cdm.com)(Chair, WEF Water Reuse Committee and President, WaterReuse Texas) or Dr. Alan Rimer (RimerAE@bv.com)(Chair, AWWA Water Reuse Committee) to discuss how our organizations might work together on this important issue with a goal of establishing a standard that is effective, practical, and protective of public health.

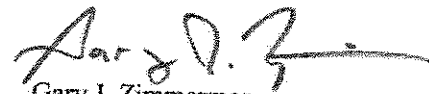
Sincerely,



G. Wade Miller  
Executive Director  
WaterReuse Association



William J. Bertera  
Executive Director  
Water Environment Federation



Gary J. Zimmerman  
Executive Director  
American Water Works Association

## Rodgers, Emory

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**From:** Rodgers, Emory  
**Sent:** Monday, October 06, 2008 1:53 PM  
**To:** Degen, Marcia (DEQ)  
**Subject:** RE: MOA with DEQ

Planning meetings in March and April and will email to you the Work Group meeting dates. Work Group 3 will have the gray, reclaimed and rain harvesting discussions and code changes to our USBC.

---

**From:** Degen, Marcia [mailto:mjdegen@deq.virginia.gov]  
**Sent:** Monday, October 06, 2008 1:37 PM  
**To:** Rodgers, Emory  
**Subject:** RE: MOA with DEQ

Emory – Thank you, I'll pass the word along to our engineers.  
Also, I had heard about the potential meetings with DHCD regarding the reuse regs from Valerie. Most likely I or one of our other engineers will be attending those so we may meet again!  
Marcia

Marcia J. Degen, Ph.D., P.E.  
Office of Wastewater Engineering  
DEQ-WCRO  
3019 Peters Creek Road  
Roanoke, VA 24019

540-562-3500  
540-562-6725 (fax)

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**From:** Rodgers, Emory (DHCD)  
**Sent:** Monday, October 06, 2008 12:10 PM  
**To:** Degen, Marcia  
**Cc:** Hodge, Vernon (DHCD); Wallace, Clinton (DHCD); Cheri Hainer; Underwood, Lynn; SShapiro@iccsafe.org; Michael D. Redifer; Robert Smalley; Eubank, Paula (DHCD)  
**Subject:** RE: MOA with DEQ

Marcia: Will have our folks take copies of the MOA to each region of VBCOA. Your regional folks might want to attend the VBCOA regions and do a dog and pony show like Health does and other state agencies with functional design roles. Always the local DEQ folks should in such cases contact the building official directly. Have told Valerie at DEQ that your recent gray water and reclaimed water along with rainwater harvesting are going to be biggies for us two and Health with energy, green and sustainability taking front burner and your new 2008 regulations.

Hope this helps.

---

**From:** Degen, Marcia [mailto:mjdegen@deq.virginia.gov]  
**Sent:** Monday, October 06, 2008 11:22 AM  
**To:** Rodgers, Emory  
**Subject:** MOA with DEQ

Hi Emory,

It's been awhile since we worked on the MOA together to define our Agency's respective duties with respect to

## Rodgers, Emory

---

**From:** Degen, Marcia [mjdegen@deq.virginia.gov]  
**Sent:** Monday, October 06, 2008 11:22 AM  
**To:** Rodgers, Emory  
**Subject:** MOA with DEQ  
**Attachments:** MEMORANDUM OF AGREEMENT July 2007.doc

Hi Emory,

It's been awhile since we worked on the MOA together to define our Agency's respective duties with respect to sewage issues.

However, I wanted to follow up on that MOA. Our engineers in the Tidewater area are running into numerous situations where occupancy permits are issued before sewage operating permits are issued. For example, an industrial park was occupied before the Certificate to Operate for the pump station was issued by DEQ. They've also gotten several inquiries from the local building officials that indicate that they are not familiar with the MOA.

If there is anything that you can do, or suggest that we do, in order to get the word out regarding our respective roles, I would greatly appreciate it.

Sincerely,  
Marcia

Marcia J. Degen, Ph.D., P.E.  
Office of Wastewater Engineering  
DEQ-WCRO  
3019 Peters Creek Road  
Roanoke, VA 24019

540-562-3500  
540-562-6725 (fax)

## MEMORANDUM OF AGREEMENT

Virginia Board of Housing and Community Development  
And  
Virginia Department of Environmental Quality

In accordance with §10.1-1186 and §36-139 of the *Code of Virginia*, the Virginia Department of Environmental Quality (the "Environmental Department") and the Virginia Department of Housing and Community Development (the "Housing Department") on this day, \_\_\_\_\_, 2007, agree to coordinate jurisdictional responsibilities through the *Virginia Uniform Statewide Building Code* (13 VAC 5-63, the "Code") and the *Sewage Collection and Treatment Regulations* (9 VAC 25-790) which are referred to as the "Regulations".

The parties agree as follows:

### 1. Codes and Regulations

- A. Adoption and promulgation of the Code is the responsibility of the Housing Department;
- B. Enforcement of the Code is the responsibility of the local building department;
- C. Promulgation of the Regulations is the responsibility of the Environmental Department;  
and
- D. The Regulations are administered and enforced by the Environmental Department.

### 2. Sewage Treatment Works, Pump Stations, and Other Sewage Handling Equipment

- A. The Environmental Department is charged with issuing construction and operation certificates for municipal sewage collection systems and treatment works. Whenever components of sewage collection systems and/or treatment works are located in a building or similar structure, the Regulations will apply to the design of all such equipment or facilities and the Code applies to the structure and all of its incidental utilities (i.e., heating, electrical, house plumbing, etc.).
- B. Wherever sewage is treated for reuse and permitted by the Environmental Department, the Regulations will apply to the design of all associated equipment or facilities and the jurisdiction of the Code will apply to all buildings and/or structures used to house the treatment and reuse equipments and facilities as well as all service plumbing, wiring, etc.
- C. No county, city, town or employee thereof, shall issue a permit (building permit) for a building designed for human occupancy without first obtaining the prior notification from the Environmental Department that safe, adequate and proper sewage treatment is, or will be made available to such building. The Environmental Department shall notify the local building official when a permit, both construction and operation, for a sewage treatment works or pump station has been issued in accordance with the Regulations. It is noted

that the Virginia Department of Health has the responsibility for construction and operation permits for single family home discharging sewage treatment systems.

### **3. Building Sewers**

- A. Where the wastewater from the building or structure flows by gravity to the building sewer, which is or will be connected to a public or private gravity sewer, the jurisdiction of the Code shall apply to the building drain, building sewer, and all other appurtenances up to the point of connection to the public or private gravity sewer.
- B. Where the wastewater from a building or structure is pumped to a public or private gravity sewer [regardless of its location inside or outside of a building] and
  - 1.) the total daily flow is less than 2000 gallons per day, the jurisdiction of the Code shall apply.
  - 2.) the total daily flow is greater than or equal to 2000 gallons per day, the jurisdiction of the Regulations shall apply.
- C. Where the wastewater from a building or structure is pumped to a pressurized force main, the jurisdiction of the Regulations shall apply.
- D. Where the wastewater from a building or structure is transferred via a vacuum system to a public or private sewer system, the jurisdiction of the Regulations shall apply.

### **4. General Agreements**

- A. It is the intention of both the Board and the Department to cooperate with each other in resolving any technical conflicts between the Regulations and the Code and in developing and implementing operational procedures to insure and promote a constructive working relationship between Code and Regulation officials.
- B. Both the Code and the Regulations, when practical, will include a clear reference to jurisdiction of the other documents.
- C. Appropriate amendments, additions, or deletions will be made to the Regulations and the Code, when practical, to insure that there is no jurisdictional conflict between the two documents.
- D. Except in matters of imminent danger to public health or safety, whenever conflicts or disagreements arise between the two agencies or their staff, all appropriate regulatory procedures will be exhausted prior to any judicial action
- E. This Agreement may be amended or terminated by mutual consent of the parties.

The undersigned agree to the Conditions of this Agreement.

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William C. Shelton, Director  
Department of Housing and Community  
Development

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David K. Paylor, Director  
Department of Environmental  
Quality

## MEMORANDUM OF AGREEMENT

Between the Virginia Board of Housing and Community Development  
and  
Virginia Department of Health

In accordance with §§ 36-98 et seq., 32.1-12, and 32.1-163 et seq. of the *Code of Virginia*, the Virginia Department of Health (the "Department") and the Virginia Board of Housing and Community Development (the "Board") on this day, July 16, 2007, agree to coordinate jurisdictional responsibilities through the Virginia Uniform Statewide Building Code (13 VAC 5-62, the "Code") and the *Sewage Handling and Disposal Regulations* (12 VAC 5-610-20) and/or the *Alternative Discharging Sewage Treatment Regulations for Individual Single Family Dwellings* (12 VAC 5-640-10) which are referred to collectively as the "*Regulations*."

The parties agree as follows:

### 1. Codes and Regulations.

- A. Adoption and promulgation of the Code is the responsibility of the Board;
- B. Enforcement of the Code is the responsibility of the local building department;
- C. Promulgation of the *Regulations* is the responsibility of the Board of Health; and
- D. The *Regulations* are administered and enforced jointly by the Department and local health departments.

### 2. Onsite or Decentralized Sewage Systems.

- A. Where the wastewater from a building or structure is discharged to an onsite sewage treatment and dispersal system or an alternative single-family discharging sewage treatment system and the flow is by gravity, the jurisdiction of the Code includes all buildings and structures and their internal service plumbing up to the point of connection of the building drain to the building sewer. The jurisdiction of the *Regulations* includes the building sewer at the point of its connection to the building drain and the functional design, specifications equipment, materials, and all appurtenances (excluding electrical and structural) for the sewage handling and dispersal facilities. The sewage handling and dispersal facilities may include a septic tank, a pump station/tank, or additional treatment devices such as a sand filter and a soil absorption field. The pump tank is typically located downstream from the septic tank. Additional treatment devices may also include pumps and blowers as well

as other electrical devices. The jurisdiction of the *Regulations* will apply to all functional aspects of these facilities which (for pump stations/tanks) include a motor control center/panel, master disconnect switch and a manual override switch. The jurisdiction of the Code shall apply to the electrical and structural components of these facilities. The requirements of the Code concerning motor control centers, disconnects, and manual override switches shall apply when all of the following conditions are met:

- i. Pumps are individually less than two (2) horsepower;
- ii. A pump is employed only to lift effluent to a higher elevation for dispersal in a soil absorption field and is not considered part of the treatment process;
- iii. Effluent is delivered to a gravity distribution box; and
- iv. Cord-and-plug connections are located in a weather proof box outside of the pump tank/wetwell unless designed for installation within the pump tank/wetwell.

If all conditions cannot be met, a separate motor control center shall be required. Examples of situations requiring a separate motor control center include, but are not limited to, sewage systems utilizing pressure dosing, time dosing and similar design concepts, and systems serving commercial establishments. The Department (or Authorized Onsite Soil Evaluator where appropriate) will be responsible for noting on the construction permit whether a separate motor control center with master disconnect and override switches is required for a specific installation.

- B. Where the discharge from individual plumbing fixtures cannot flow by gravity to a building sewer, and where the building sewer will be connected to an onsite sewage treatment and dispersal system and where a pumping station and pumps will be located internal to the building or structure, the Code shall apply to the design, construction, and installation of the pump station, pumps, and appurtenances, and the *Regulations* will apply to the sewage treatment and dispersal system from the point of the building drain connection to the building sewer.

3. **Enclosed Equipment, Reuse.** Wherever sewage is treated for reuse in a manner other than soil dispersal or discharge to the waters of the Commonwealth, the *Regulations* will apply to the design of all associated equipment or facilities and the jurisdiction of the Code will apply to all buildings and/or structures used to house the treatment and reuse equipment and facilities as well as all service plumbing, wiring, etc.

#### 4. Permits.

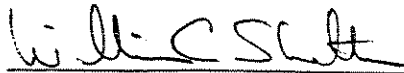
- A. In accordance with § 32.1-165 of the *Code of Virginia*, no county, city, town or employee thereof, shall issue a permit (building permit) for the construction of a new building designed for human occupancy without the prior written notification (in the form of a construction permit, operating permit, subdivision approval, or certification letter) of the State Health Commissioner ("Commissioner") or his agent that safe, adequate, and proper sewage treatment is or will be made available to such building. Whenever new construction will result in an increase in the wastewater flow or capacity of an existing structure, the Commissioner's written notice to the building official will be in the form of a valid permit for construction of an onsite sewage system and neither certification letter nor subdivision approval will be sufficient to comply with this requirement. The Department will apply the standards set forth in the *Regulations* when evaluating applications for the handling and disposal of sewage onsite. The Department will notify the local building official as soon as practicable when a permit for a sewage treatment and disposal system has been issued in accordance with the *Regulations*.
- B. The jurisdiction of the Code includes the issuance of a certificate of occupancy upon inspection and approval of the structure, and the jurisdiction of the *Regulations* includes the issuance of an operation permit upon inspection and approval of the sewage treatment, dispersal, and handling system(s). The local health department will notify the local building official as soon as practicable when an operation permit has been issued and the local building official will not issue the certificate of occupancy as required by the Code until he has received such notice.
- C. The Code and the *Regulations*, when practical, will include clear references to the jurisdiction of the other document.
- D. Appropriate amendments, additions, or deletions will be made to the *Regulations* and to the Code, when practical, to ensure that there are no jurisdictional conflicts between the two.

#### 5. Conflict Resolution.

- A. It is the intention of both the Board and the Department to cooperate with each other in resolving any technical conflicts between the *Regulations* and the Code, and in developing and implementing operational procedures to ensure and promote constructive working relationships among building and health officials.

- B. Except in matters of imminent danger to public health or safety, whenever conflicts or disagreements arise between the two agencies or their staff, all appropriate regulatory procedures will be exhausted prior to any judicial action.
- C. This Agreement may be amended or terminated by mutual consent of the parties.

The undersigned agree to the Conditions of this Agreement.



William, C. Shelton, Director  
Department of Housing and  
Community Development

For

The Board of Housing and  
Community Development



Robert B. Stroube  
State Health Commissioner  
Department of Health



# Department of Housing and Community Development

Division of Building  
and Fire Regulation

Deputy Director

## MEMORANDUM

To: Building and Property Maintenance Officials  
From: Emory Rodgers, DHCD *ER*  
Subject: Boiler and Fuel Train Inspections  
Date: March 7, 2003

In a letter dated December 12, 2002 and sent to building and property maintenance officials, the Department of Housing and Community Development spelled out where the local code officials would have enforcement responsibilities for construction, alterations, replacement and maintenance under the USBC for boilers and fuel train assemblies. To coordinate and ensure uniformity the Department of Labor and Industry boiler 3<sup>rd</sup> party inspectors would conduct inspections from the shut off valve.

Subsequent discussions with the Department of Labor and Industry, has resulted in an even more definitive level of enforcement responsibilities being established between the local code officials and the Department of Labor and Industry enforcement staff and 3<sup>rd</sup> party inspectors. The Department of Labor and Industry boiler oversight and 3<sup>rd</sup> party inspectors would inspect the waterside controls; inspect the flame safeguards only on the fuel train controls; and, ensure the boiler is installed per the manufacturer's supplied drawings. The local code officials would inspect everything else, including the fuel train combustion side controls and also venting regulators in accordance with the referenced codes and standards in the USBC.

We believe this clarification will ensure even better coordination and enhanced uniformity between the two state agencies and local code officials.

cc: Jack Proctor  
DHCD Staff  
Fred Barton  
Guy Tomberlin  
Eric Mays




Department of Housing and  
Community Development

Division of Building  
and Fire Regulation

Deputy Director

MEMORANDUM

To: Fred Barton, Chief Boiler Inspector, DL&I  
From: Jack Proctor, Deputy Director, DHCD   
Date: December 12, 2002  
Subject: Boiler Fuel/Gas Train Assemblies

As the result of a meeting between our two agencies and VPMIA President, Guy Tomberlin on September 25, 2002, it has been agreed upon that the inspection of boiler fuel/gas train assemblies will be under the auspices of the Department of Labor and Industry. Both of our agencies have proposed regulations being considered for adoption in 2003 that incorporate the ASME CSD-1-98 standards. The 2002 USBC will be adopting the 2000 International Fuel Gas Code and the 2000 International Residential Code that reference the ASME CSD-1 standard. Local building departments will inspect by these codes up to the appliance shut off valve. Department of Labor and Industry inspections will begin with the appliance shut off valve. Both agencies will thus be utilizing the same national referenced standards to ensure uniformity in our coordinated and joint enforcement activities for construction and maintenance purposes. Our discussions and understandings are consistent with the Memorandum of Agreement between DHCD and DL&I dated November 2001.

It was also agreed that the USBC-International Fuel Gas Code Section 410.3 would govern the installation and inspection for the venting of regulators. The boiler regulations currently don't have any references to venting regulators. If during the public comment periods for either of our two proposed regulations, there are code changes submitted on the venting of regulators to allow manifolds, other than the USBC modification process, for the venting of regulators, we will coordinate any such code changes with each department and our respective clients. This coordination is necessary because the 2000 IFGC Section 410.3 and the referenced standard ASME CSD-1-98 conflict with each other. The IFGC allows for only direct and separate venting of regulators while the ASME CSD-1-98 standard allows for a manifold system to vent multiple regulators.

It was agreed that DHCD and DPOR would engage in outreach efforts to code officials on the roles and regulations for boilers between our two agencies. DHCD will amend our technical training module for mechanical, plumbing and fuel gas to make clear that the building departments need to be sending to DL&I the application or an email for new and replacement installations of boilers and who is to inspect what components on the boilers and the boiler room.

166

Memorandum  
Page 2

This same information will be made a part of the DHCD "Related Laws Package" that will be revised with the adoption of the 2002 USBC.

As always, we are appreciative of the very cooperative relationship that you have brought between our two agencies and your proactive approach to seek our input on these functional design matters between our two departments.

CC: Bill Shelton  
DHCD staff  
VBCOA  
VPMIA  
Local Building, Fire and Property Maintenance Officials  
Brian Biggar  
Adam Ebbin



Department of Housing and  
Community Development

Division of Building  
and Fire Regulation

Deputy Director

MEMORANDUM

To: Building and Property Maintenance Officials  
From: Emory Rodgers, DHCD *ER*  
Subject: Boiler and Fuel Train Inspections  
Date: March 7, 2003

In a letter dated December 12, 2002 and sent to building and property maintenance officials, the Department of Housing and Community Development spelled out where the local code officials would have enforcement responsibilities for construction, alterations, replacement and maintenance under the USBC for boilers and fuel train assemblies. To coordinate and ensure uniformity the Department of Labor and Industry boiler 3<sup>rd</sup> party inspectors would conduct inspections from the shut off valve.

Subsequent discussions with the Department of Labor and Industry, has resulted in an even more definitive level of enforcement responsibilities being established between the local code officials and the Department of Labor and Industry enforcement staff and 3<sup>rd</sup> party inspectors. The Department of Labor and Industry boiler oversight and 3<sup>rd</sup> party inspectors would inspect the waterside controls; inspect the flame safeguards only on the fuel train controls; and, ensure the boiler is installed per the manufacturer's supplied drawings. The local code officials would inspect everything else, including the fuel train combustion side controls and also venting regulators in accordance with the referenced codes and standards in the USBC.

We believe this clarification will ensure even better coordination and enhanced uniformity between the two state agencies and local code officials.

cc: Jack Proctor  
DHCD Staff  
Fred Barton  
Guy Tomberlin  
Eric Mays

168



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF LABOR AND INDUSTRY

C. RAY DAVENPORT  
COMMISSIONER

### MEMORANDUM

POWERS-TAYLOR BUILDING  
13 SOUTH THIRTEENTH STREET  
RICHMOND, VA 23219  
PHONE (804) 371-2327  
FAX (804) 371-6524  
TDD (804) 786-2376

TO: Jack Proctor, Deputy Director  
Division of Building and Fire Regulation  
Dept. of Housing & Community Development

FROM: Fred P. Barton, Director/Chief Inspector  
Boiler Safety Compliance Program

SUBJECT: Boiler Fuel/Gas Train Assemblies

DATE: January 21, 2003

This memorandum is in response to your memorandum of December 12, 2002 that we received on January 7, 2003. I contacted you and, at your request, Emory Rodgers, Regulatory Consultant, upon receipt of this memorandum to clarify our role regarding overseeing the inspections of Boiler Fuel/Gas Train assemblies.

Two statements in the first paragraph of your December 12<sup>th</sup> memorandum "Local Building departments will inspect by these codes up to the appliance shut off valve. Department of Labor and Industry inspections will begin with the appliance shut off valve" are contrary to our agreement at the meeting on September 25, 2002.

The recently passed Boiler Rule revisions will not provide for the Department of Labor & Industry to start inspecting fuel train combustion side controls, except flame safeguards. We will focus on water side controls, flame safeguards (i.e. Fireye), and installations per manufacturer supplied drawings only. We understand from Guy Tomberlin's E-mail of 8/22/02, and at the meeting that building officials will continue enforcement of fuel train combustion side controls. Any questions or nonconformances found on venting of regulators will continue to be referred to building officials for disposition.

Please clarify our position with all parties that might have been distributed a copy of your December 12, 2002 memorandum.

In advance, thanks for your continued cooperation.

FPB/fs

pc: Adam Ebbin, Chief Deputy Commissioner, DOLI  
Brian Biggar - Travelers  
Guy Tomberlin

**SENATE BILL NO. 1478**

**AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the Senate Committee on General Laws and Technology  
on February 4, 2009)

(Patrons Prior to Substitute--Senators Locke and Edwards [SB 1014])

*A BILL to amend and reenact § 2.2-3705.3 of the Code of Virginia, relating to the Freedom of Information Act; building and fire code complaints.*

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-3705.3 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-3705.3. Exclusions to application of chapter; records relating to administrative investigations.

The following records are excluded from the provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law:

1. Confidential records of all investigations of applications for licenses and permits, and of all licensees and permittees, made by or submitted to the Alcoholic Beverage Control Board, the State Lottery Department, the Virginia Racing Commission, the Department of Agriculture and Consumer Services relating to investigations and applications pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2, or the Private Security Services Unit of the Department of Criminal Justice Services.
2. Records of active investigations being conducted by the Department of Health Professions or by any health regulatory board in the Commonwealth.
3. Investigator notes, and other correspondence and information, furnished in confidence with respect to an active investigation of individual employment discrimination complaints made to the Department of Human Resource Management or to such personnel of any local public body, including local school boards as are responsible for conducting such investigations in confidence. However, nothing in this section shall prohibit the disclosure of information taken from inactive reports in a form that does not reveal the identity of charging parties, persons supplying the information or other individuals involved in the investigation.
4. Records of active investigations being conducted by the Department of Medical Assistance Services pursuant to Chapter 10 (§ 32.1-322 et seq.) of Title 32.1.
5. Investigative notes and other correspondence and information furnished in confidence with respect to an investigation or conciliation process involving an alleged unlawful discriminatory practice under the Virginia Human Rights Act (§ 2.2-2600 et seq.) or under any local ordinance adopted in accordance with the authority specified in § 2.2-2638, or adopted pursuant to § 15.2-965, or adopted prior to July 1, 1987, in accordance with applicable law, relating to local human rights or human relations commissions. However, nothing in this section shall prohibit the distribution of information taken from inactive reports in a form that does not reveal the identity of the parties involved or other persons supplying information.
6. Records of studies and investigations by the State Lottery Department of (i) lottery agents, (ii) lottery vendors, (iii) lottery crimes under §§ 58.1-4014 through 58.1-4018, (iv) defects in the law or regulations that cause abuses in the administration and operation of the lottery and any evasions of such provisions, or (v) the use of the lottery as a subterfuge for organized crime and illegal gambling where such official records have not been publicly released, published or copyrighted. All studies and investigations referred to under clauses (iii), (iv) and (v) shall be open to inspection and copying upon completion of the study or investigation.
7. Investigative notes, correspondence and information furnished in confidence, and records otherwise exempted by this chapter or any Virginia statute, provided to or produced by or for the (i) Auditor of Public Accounts; (ii) Joint Legislative Audit and Review Commission; (iii) Department of the State Internal Auditor with respect to an

246.6 et seq.) of Chapter 6 or Chapter 13 (§ 18.2-512 et seq.) of Title 18.2, or Article 1 (§ 58.1-1000) of Chapter 10 of Title 58.1. However, records related to an investigation that has been inactive for more than six months shall, upon request, be disclosed provided such disclosure is not otherwise prohibited by law and does not reveal the identity of charging parties, complainants, persons supplying information, witnesses or other individuals involved in the investigation.

*15. The names, addresses, and telephone numbers of complainants furnished in confidence with respect to an investigation of individual complaints regarding the Uniform Statewide Building Code (§ 36-97 et seq.) or the Statewide Fire Prevention Code (§ 72-64 et seq.) made to a local governing body or the State Fire Marshal. Nothing in this subdivision shall prevent the disclosure of information relating to any building in connection with an inquiry into the performance of that building after it has been subjected to fire, explosion, natural disaster, or other catastrophic event.*

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**Legislative Information System**

**VIRGINIA ACTS OF ASSEMBLY -- CHAPTER**

*An Act to amend and reenact §§ 36-85.28, 36-85.31, and 36-85.32 of the Code of Virginia, relating to the Manufactured Housing Licensing and Transaction Recovery Fund Law.*

[H 2569]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 36-85.28, 36-85.31, and 36-85.32 of the Code of Virginia are amended and reenacted as follows:

§ 36-85.28. Limitation on damages; disclosure to buyer.

A. If a buyer fails to accept delivery of a manufactured home, the manufactured home dealer may retain actual damages according to the following terms:

1. If the manufactured home is in the dealer's stock and is not specially ordered from the manufacturer for the buyer, the maximum retention shall be ~~\$500~~ \$1,000.

2. If the manufactured home is a single section unit and is specially ordered from the manufacturer for the buyer, the maximum retention shall be ~~\$1,000~~ \$2,000.

3. *If the manufactured home is larger than a single section unit in the dealer's stock and is not specially ordered for the buyer, the maximum retention shall be \$4,000.*

4. If the manufactured home is larger than a single section unit and is ~~special~~ specially ordered for the buyer from the manufacturer, the maximum retention shall be ~~\$5,000~~ \$7,000.

B. A dealer shall provide a written disclosure to the buyer at the time of the sale of a manufactured home alerting the buyer to the actual damages that may be assessed of the buyer, as listed in subsection A, for failure to take delivery of the manufactured home as purchased.

§ 36-85.31. Recovery fund to be established.

A. Each manufactured home manufacturer, dealer, broker and salesperson operating in the Commonwealth of Virginia shall be required to pay an initial assessment fee as set forth in subsection B to the Virginia Manufactured Housing Transaction Recovery Fund. Thereafter, assessment fees shall be assessed as necessary to achieve and maintain a minimum fund balance of ~~\$250,000~~ \$300,000.

B. Each applicant approved by the Board for a license as a manufactured home manufacturer, dealer, broker, or salesperson in accordance with the provisions of Article 1 (§ 36-85.16 et seq.) of this chapter shall pay into the fund the following assessment fees:

1. For a manufacturer - \$4,000 for each separate manufacturing facility payable in one installment or \$4,400 payable at \$2,200 per year for two years.

2. For a dealer - \$500 per retail location.

3. For a broker - \$500 per sales office.

4. For a salesperson - \$50 per individual.

C. All assessment fees collected under this article shall be deposited in the state treasury and the State Treasurer

shall credit the amount paid into a special revenue fund from which appropriations may be utilized by the Board in accordance with the express purposes set forth in this article. The assets of the fund shall be invested in accordance with the advice of the State Treasurer. Interest earned on deposits constituting this fund shall accrue to the fund or may be used for the purposes of providing educational programs to ~~the consumer about~~ consumers, code officials, and the manufactured housing industry and to pay department staff expenses for conducting investigations and preparing reports and findings for the Board.

*D. The Board may authorize an amount not to exceed five percent of the fund balance in any fiscal year to be used both for educational purposes and to pay department staff expenses for conducting investigations and preparing reports and findings for the Board.*

§ 36-85.32. Recovery from fund generally.

Any person who suffers any loss or damage by any act of a regulant that constitutes a violation of this chapter shall have the right to institute an action to recover from the recovery fund.

Upon a finding by the Board that a violation has occurred, the Board shall direct the responsible manufacturer, dealer, broker, or salesperson to pay the awarded amount to the claimant. If such amount is not paid within thirty days following receipt of the written decision of the Board and no appeal has been filed in court, the Board shall, upon request of the claimant, pay from the recovery fund the amount of the award to the claimant provided that:

1. The maximum claim of one claimant against the fund because of a single ~~violation~~ or multiple violations by one ~~regulant or more regulants~~ shall be limited to ~~\$20,000~~ \$40,000;
2. The fund balance is sufficient to pay the award;
3. The claimant has assigned the Board all rights and claims against the regulant; and
4. The claimant agrees to subrogate to the Board all rights of the claimant to the extent of payment.

The aggregate of claims against the fund for violations by any one regulant shall be limited by the Board to \$75,000 per manufacturer, \$35,000 per dealer, \$35,000 per broker, and \$25,000 per salesperson during any license period. If a claim has been made against the fund, and the Board has reason to believe there may be additional claims against the fund from other transactions involving the same regulant, the Board may withhold any payments from the fund involving such regulant for a period of not more than one year from the date on which the claimant is approved by the Board for an award from the fund. After this one-year period, if the aggregate of claims against the regulant exceeds the above limitations, said amount shall be prorated by the Board among the claimants and paid from the fund in proportion to the amounts of their awards remaining unpaid.

The amount of damages awarded by the Board shall be limited to actual, compensatory damages and shall not include attorney's fees for representation before the Board.

2. That the provisions of this act amending § 36-85.31 of the Code of Virginia shall expire on July 1, 2011.

**HOUSE BILL NO. 1788**

**AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the House Committee on Counties, Cities and Towns)  
(Patrons Prior to Substitute--Delegates Hull and Merricks [HB 2294])

House Amendments in [ ] -- February 9, 2009

*A BILL to amend and reenact § 15.2-2157 of the Code of Virginia, as it shall become effective, relating to regulation of septic systems.*

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-2157 of the Code of Virginia, as it shall become effective, is amended and reenacted as follows:

§ 15.2-2157. Onsite sewage systems when sewers not available; civil penalties.

A. Any locality may require the installation, maintenance and operation of, regulate and inspect onsite sewage systems or other means of disposing of sewage when sewers or sewerage disposal facilities are not available; without liability to the owner thereof, may prevent the maintenance and operation of onsite sewage systems or such other means of disposing of sewage when they contribute or are likely to contribute to the pollution of public or private water supplies or the contraction or spread of infectious, contagious and dangerous diseases; and may regulate and inspect the disposal of human excreta.

B. Any locality that (i) has a record of the location of alternative onsite sewage systems; (ii) has notified owners of their maintenance responsibility for such systems; and (iii) has a method to identify property transfer may adopt an ordinance establishing a uniform schedule of civil penalties for violations of specified provisions for the operation and maintenance of alternative onsite sewage systems, as defined in § 32.1-163, that are not abated or remedied within 30 days after receipt of notice of violation from the local health director or his designee. No civil action authorized under this section shall proceed while a criminal action is pending.

This schedule of civil penalties shall be uniform for each type of specified violation, and the penalty for any one violation shall be a civil penalty of not more than \$100 for the initial summons and not more than \$150 for each additional summons. Each day during which the violation is found to have existed shall constitute a separate offense. However, specified violations arising from the same operative set of facts shall not be charged more frequently than once in any 10-day period, and a series of specified violations arising from the same operative set of facts shall not result in civil penalties exceeding a total of \$3,000. If the violation is not abated after the imposition of the maximum fine, the locality may pursue other remedies as provided by law. Designation of a particular ordinance violation for a civil penalty pursuant to this section shall be in lieu of criminal penalties, except for any violation that contributes to or is likely to contribute to the pollution of public or private water supplies or the contraction or spread of infectious, contagious, and dangerous diseases.

The local health director or his designee may issue a civil summons ticket as provided by law for a scheduled violation. Any person summoned or issued a ticket for a scheduled violation may make an appearance in person or in writing by mail to the department of finance or the treasurer of the locality prior to the date fixed for trial in court. Any person so appearing may enter a waiver of trial, admit liability, and pay the civil penalty established for the offense charged.

If a person charged with a scheduled violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district court in the same manner and with the same right of appeal as provided for by law. In any trial for a scheduled violation, the locality shall have the burden of proving by a preponderance of the evidence the liability of the alleged violator. An admission of liability or finding of liability under this section shall not be deemed an admission at a criminal proceeding.

This section shall be not interpreted to allow the imposition of civil penalties for activities related to land development.

C. When sewers or sewerage disposal facilities are not available, a locality shall not prohibit the use of alternative onsite sewage systems that have been approved by the Virginia Department of Health for use in the particular circumstances and conditions in which the proposed system is to be operating.

D. A locality shall not require maintenance standards and requirements for alternative onsite sewage systems that exceed those allowed under or established by the State Board of Health pursuant to § 32.1-164.

E. A locality may request the State Health Commissioner to require, as a precondition to the issuance of an alternative onsite sewage system permit to serve a residential structure in the locality, pursuant to § 32.1-164, that the property owner record, in the land records of the clerk of the circuit court in the jurisdiction where all or part of the site or proposed site of the onsite sewage system is to be located, an instrument reflecting the existence of the system and identifying by reference the applicable maintenance regulations for each component of the system, which shall be transferred with the title to the property upon the sale or transfer of the land that is the subject of the permit.

2. That the provisions contained in subsection C of § 15.2-2157 of the Code of Virginia shall become effective 30 days following final promulgation by the Board of Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals of regulations for the licensure of (i) onsite soil evaluators, (ii) installers of alternative onsite sewage systems, and (iii) operators of alternative onsite sewage systems pursuant to Chapter 924 of the Acts of Assembly of 2007.

3. That the provisions contained in subsection D of § 15.2-2157 of the Code of Virginia shall become effective 30 days following final promulgation by the Board of Health of regulations governing the operation and maintenance of alternative onsite sewage systems pursuant to Chapters 892 and 924 of the Acts of Assembly of 2007.

[ 4. That Chapters 892 and 924 of the 2007 Acts of Assembly are amended and reenacted by adding a fifth enactment, as follows:

**5. That the Commissioner shall appoint a technical advisory committee composed of representatives of local health departments, the alternative onsite sewage system industry, the home building industry, and others as he deems appropriate to advise and provide recommendations to the Board as it develops regulations governing the operation and maintenance of alternative onsite sewage systems and which shall continue to advise and provide recommendations to the Board on an ongoing basis. ]**

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Legislative Information System

**HOUSE BILL NO. 1680**

House Amendments in [ ] -- January 27, 2009

*A BILL to amend and reenact § 15.2-2307 of the Code of Virginia, relating to vested rights.*

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Patron Prior to Engrossment--Delegate Orrock

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Referred to Committee on Counties, Cities and Towns  
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Be it enacted by the General Assembly of Virginia:

1. That § 15.2-2307 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-2307. Vested rights not impaired: nonconforming uses.

Nothing in this article shall be construed to authorize the impairment of any vested right. Without limiting the time when rights might otherwise vest, a landowner's rights shall be deemed vested in a land use and such vesting shall not be affected by a subsequent amendment to a zoning ordinance when the landowner (i) obtains or is the beneficiary of a significant affirmative governmental act which remains in effect allowing development of a specific project, (ii) relies in good faith on the significant affirmative governmental act, and (iii) incurs extensive obligations or substantial expenses in diligent pursuit of the specific project in reliance on the significant affirmative governmental act.

For purposes of this section and without limitation, the following are deemed to be significant affirmative governmental acts allowing development of a specific project: (i) the governing body has accepted proffers or proffered conditions which specify use related to a zoning amendment; (ii) the governing body has approved an application for a rezoning for a specific use or density; (iii) the governing body or board of zoning appeals has granted a special exception or use permit with conditions; (iv) the board of zoning appeals has approved a variance; (v) the governing body or its designated agent has approved a preliminary subdivision plat, site plan or plan of development for the landowner's property and the applicant diligently pursues approval of the final plat or plan within a reasonable period of time under the circumstances; or (vi) the governing body or its designated agent has approved a final subdivision plat, site plan or plan of development for the landowner's property.

A zoning ordinance may provide that land, buildings, and structures and the uses thereof which do not conform to the zoning prescribed for the district in which they are situated may be continued only so long as the then existing or a more restricted use continues and such use is not discontinued for more than two years, and so long as the buildings or structures are maintained in their then structural condition; and that the uses of such buildings or structures shall conform to such regulations whenever, with respect to the building or structure, the square footage of a building or structure is enlarged, or the building or structure is structurally altered as provided in the Uniform Statewide Building Code (§ 36-97 et seq.). Further, a zoning ordinance may provide that no nonconforming use may be expanded, or that no nonconforming building or structure may be moved on the same lot or to any other lot which is not properly zoned to permit such nonconforming use.

Notwithstanding any local ordinance to the contrary, if (i) the local government has issued a building permit, the building or structure was thereafter constructed in accordance with the building permit, and upon completion of construction, the local government issued a certificate of occupancy or a use permit therefor, or (ii) the owner of the building or structure has paid taxes to the locality for such building or structure for a period in excess of 15 years, a zoning ordinance may provide that the building or structure is nonconforming, but shall not provide that such building or structure is illegal and shall be removed solely due to such nonconformity. Further, a zoning ordinance may provide that such building or structure be brought in compliance with the Uniform Statewide Building Code ~~[ in effect at the time of the construction of the building or structure ]~~.

A zoning ordinance shall permit the owner of any residential or commercial building damaged or destroyed by a natural disaster or other act of God to repair, rebuild, or replace such building to eliminate or reduce the

nonconforming features to the extent possible, without the need to obtain a variance as provided in § 15.2-2310. If such building is damaged greater than 50 percent and cannot be repaired, rebuilt or replaced except to restore it to its original nonconforming condition, the owner shall have the right to do so. The owner shall apply for a building permit and any work done to repair, rebuild or replace such building shall be in compliance with the provisions of the Uniform Statewide Building Code (§ 36-98 et seq.) and any work done to repair, rebuild or replace such building shall be in compliance with the provisions of the local flood plain regulations adopted as a condition of participation in the National Flood Insurance Program. Unless such building is repaired, or rebuilt within two years of the date of the natural disaster or replaced within two years of the date of the natural disaster or other act of God, such building shall only be repaired, rebuilt or replaced in accordance with the provisions of the zoning ordinance of the locality. However, if the nonconforming building is in an area under a federal disaster declaration and the building has been damaged or destroyed as a direct result of conditions that gave rise to the declaration, then the zoning ordinance shall provide for an additional two years for the building to be repaired, rebuilt or replaced as otherwise provided in this paragraph. For purposes of this section, "act of God" [ ~~is defined as~~ shall include ] any natural disaster or phenomena including a hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake or fire [ ~~not~~ caused by lightning or wildfire. Further, a ] fire caused by an individual other than the property owner shall not adversely affect the rights vested in the affected property.

Nothing in this section shall be construed to prevent a locality, after making a reasonable attempt to notify such property owner, from ordering the removal of a nonconforming sign that has been abandoned. For purposes of this section, a sign shall be considered abandoned if the business for which the sign was erected has not been in operation for a period of at least two years. Any locality may, by ordinance, provide that following the expiration of the two-year period any abandoned nonconforming sign shall be removed by the owner of the property on which the sign is located, if notified by the locality to do so. If, following such two-year period, the locality has made a reasonable attempt to notify the property owner, the locality through its own agents or employees may enter the property upon which the sign is located and remove any such sign whenever the owner has refused to do so. The cost of such removal shall be chargeable to the owner of the property. Nothing herein shall prevent the locality from applying to a court of competent jurisdiction for an order requiring the removal of such abandoned nonconforming sign by the owner by means of injunction or other appropriate remedy.

Nothing in this section shall be construed to prevent the land owner or home owner from removing a valid nonconforming manufactured home from a mobile or manufactured home park and replacing that home with another comparable manufactured home that meets the current HUD manufactured housing code. In such mobile or manufactured home park, a single-section home may replace a single-section home and a multi-section home may replace a multi-section home. The owner of a valid nonconforming mobile or manufactured home not located in a mobile or manufactured home park may replace that home with a newer manufactured home, either single- or multi-section, that meets the current HUD manufactured housing code. Any such replacement home shall retain the valid nonconforming status of the prior home.

097654672

**HOUSE BILL NO. 1680**

House Amendments in [ ] -- January 27, 2009

*A BILL to amend and reenact § 15.2-2307 of the Code of Virginia, relating to vested rights.*

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Patron Prior to Engrossment--Delegate Orrock

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Referred to Committee on Counties, Cities and Towns  
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Be it enacted by the General Assembly of Virginia:

1. That § 15.2-2307 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-2307. Vested rights not impaired; nonconforming uses.

Nothing in this article shall be construed to authorize the impairment of any vested right. Without limiting the time when rights might otherwise vest, a landowner's rights shall be deemed vested in a land use and such vesting shall not be affected by a subsequent amendment to a zoning ordinance when the landowner (i) obtains or is the beneficiary of a significant affirmative governmental act which remains in effect allowing development of a specific project, (ii) relies in good faith on the significant affirmative governmental act, and (iii) incurs extensive obligations or substantial expenses in diligent pursuit of the specific project in reliance on the significant affirmative governmental act.

For purposes of this section and without limitation, the following are deemed to be significant affirmative governmental acts allowing development of a specific project: (i) the governing body has accepted proffers or proffered conditions which specify use related to a zoning amendment; (ii) the governing body has approved an application for a rezoning for a specific use or density; (iii) the governing body or board of zoning appeals has granted a special exception or use permit with conditions; (iv) the board of zoning appeals has approved a variance; (v) the governing body or its designated agent has approved a preliminary subdivision plat, site plan or plan of development for the landowner's property and the applicant diligently pursues approval of the final plat or plan within a reasonable period of time under the circumstances; or (vi) the governing body or its designated agent has approved a final subdivision plat, site plan or plan of development for the landowner's property.

A zoning ordinance may provide that land, buildings, and structures and the uses thereof which do not conform to the zoning prescribed for the district in which they are situated may be continued only so long as the then existing or a more restricted use continues and such use is not discontinued for more than two years, and so long as the buildings or structures are maintained in their then structural condition; and that the uses of such buildings or structures shall conform to such regulations whenever, with respect to the building or structure, the square footage of a building or structure is enlarged, or the building or structure is structurally altered as provided in the Uniform Statewide Building Code (§ 36-97 et seq.). Further, a zoning ordinance may provide that no nonconforming use may be expanded, or that no nonconforming building or structure may be moved on the same lot or to any other lot which is not properly zoned to permit such nonconforming use.

Notwithstanding any local ordinance to the contrary, if (i) the local government has issued a building permit, the building or structure was thereafter constructed in accordance with the building permit, and upon completion of construction, the local government issued a certificate of occupancy or a use permit therefor, or (ii) the owner of the building or structure has paid taxes to the locality for such building or structure for a period in excess of 15 years, a zoning ordinance may provide that the building or structure is nonconforming, but shall not provide that such building or structure is illegal and shall be removed solely due to such nonconformity. Further, a zoning ordinance may provide that such building or structure be brought in compliance with the Uniform Statewide Building Code [ ~~in effect at the time of the construction of the building or structure~~ ]

A zoning ordinance shall permit the owner of any residential or commercial building damaged or destroyed by a natural disaster or other act of God to repair, rebuild, or replace such building to eliminate or reduce the

## Rodgers, Emory

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**From:** Hodge, Vernon  
**Sent:** Tuesday, January 20, 2009 12:15 PM  
**To:** Brock, Larry; Wallace, Clinton; Eubank, Paula; Rodgers, Emory  
**Cc:** Negley, Valrae; Dyer, Lorenzo; Potts, Richard; Leatherby, Eric  
**Subject:** RE: Possible Errors...

There are no mistakes except the first one (signs) which we already knew about. The rest of them are cross references to IBC Chapter 1 provisions which are addressed in our administrative provisions and references to Group R-5, which we have not attempted to do in the IBC.

Vernon

-----Original Message-----

**From:** Brock, Larry  
**Sent:** Saturday, January 17, 2009 11:25 AM  
**To:** Hodge, Vernon; Wallace, Clinton; Eubank, Paula; Rodgers, Emory  
**Cc:** Negley, Valrae; Dyer, Lorenzo; Potts, Richard; Leatherby, Eric  
**Subject:** FW: Possible Errors...

FYI

-----Original Message-----

**From:** mneville@co.stafford.va.us [mailto:mneville@co.stafford.va.us]  
**Sent:** Thursday, January 15, 2009 6:54 PM  
**To:** Brock, Larry  
**Subject:** Possible Errors...

Hey Larry:

We may have a few more errors in our 2006 Virginia Construction Code, First Printing, May 2008.

- 1) The earlier noted Appendix H - H101.2 Signs exempt from permits...
- 2) Section 703.3 Alternate methods for determining fire resistance - Method or Procedure # 5...
- 3) Section 717.3.2 Groups R-1, R-2, R-3, and R-4 - I was wondering if R-5 should have been listed...
- 4) Definition for Merchandise Pad that references Section 105.2...

Please direct this information to the proper department.

Thanks,

Myra M. Neville

Sent from my Verizon Wireless BlackBerry